Approved: 3-12-97
Date

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION & ELECTIONS.

The meeting was called to order by Chairperson Kent Glasscock at 9:00 a.m. on March 11, 1997, in Room 521-S of the Capitol.

All members were present except: Representative Jim Long, Excused

Committee staff present: Mary Galligan, Legislative Research Department
Mike Heim, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Fulva Seufert, Committee Secretary

Conferees appearing before the committee: Senator Tim Emert
Representative John Edmonds
Stan Peterson, Kansas State Board of Technical Professions
Jon Callen, Wichita, Special Engineer/Geologist
John Szturo, Engineering Geologist
Steve Montgomery, Attorney/Lobbyists, Topeka
Larry Skelton, President of Kansas Geological Society
Doyle Fair, Wichita
Kevin Bailey

Others attending: See attached list

Chairperson Glasscock called the Committee's attention to the distributed Minutes for February 24, 1997 and March 6, 1997. Vice Chairperson Tanner made a motion to approve the February 24 and March 6 minutes, and Representative Bonnie Sharp seconded. Motion passed.

The Chair also called attention to the packet of fiscal notes and the written testimony of Dr.Stanley Grant, the K-State Department of Geology, George Barbee, William Henry, William R. Bryson, Lee C. Gerhard, and William Gilliland. (Attachments 8, 9, 10, 11, 12, 13, and 14.)

Chairperson Glasscock announced there would be hearings on **SB 33 and HB 2490.**

Chairperson Glasscock opened the Public Hearing on **SB 33.**

SB 33 - An act concerning municipalities; relating to the bonding of certain officers; amending K.S.A. 19-4204 and 19-4206 and repealing the existing sections.

The Chair welcomed Senator Emert who spoke as a proponent for **SB 33**. He stated that it was a simple bill that would allow those treasurers to be bonded under the blanket bonding for the County. He said that a lot of counties are already doing this without knowing that they should not. He said that most bonds are $5,000 and that some small cemetery district budgets are not even near this amount.

There being no other conferees, Chairperson Glasscock closed the Public Hearing on **SB 33.**

The Chair asked for the Committee's pleasure on **SB 33.** Representative Gwen Welshimer made a motion to pass out favorably and Representative Jonathan Wells seconded.

The Revisor, Theresa Kiernan, pointed out that line 13 should have a small word change, so with the permission of Representative Wells who seconded the motion, it was withdrawn.

Representative Gwen Welshimer made a motion to pass out **SB 33** favorable as amended, and Representative Jonathan Wells seconded. Motion passed.

Chairperson Glasscock opened the Public Hearing for **HB 2490.**

HB 2490 - An act concerning the practice of geology; providing for licensure and regulation as a technical profession; amending K.S.A. 74-7003 and 74-7013 and repealing the existing sections.

The Chair welcomed Representative John Edmonds who spoke as a proponent for **HB 2490**. He said that it was essentially the same bill that went by the wayside last year. He then yielded the floor for the geologists and those who knew more about the content of **HB 2490**.

Chairperson Glasscock recognized Stan Peterson, Registered Architect in Kansas who is in private practice. He spoke as a proponent for **HB 2490** with the following suggested amendments: Section 5b- changed some wording related to that part of the bill; New section 7 - be stricken because he doesn't think grandfathering serves the best interest of the public; and the last amendment concerned the implementation of the bill. (Attachment 1.)

The Committee had several questions such as how many types of geologists and if licensing of such a diverse group under one license would be a problem. Representative Jonathan Wells wanted clarification about the definition of a geologist on page 3, line 40. Representative Deena Horst wanted to know if he had talked to the geologists about the grandfathering clause and if this was going to be up to the legislature to decide. Representative Larry Campbell wondered if the examination would be a problem for someone who has been out of school for thirty or so years. Representative Ralph Tanner was concerned about whether a geologist would be able to work in the State of Kansas if they don't take the test. The answer to this last question was that the examination would only test minimum competency. Mr. Peterson said that if they did not pass, they would have to discipline until they could meet requirements of the Board.

Representative Jonathan Wells asked a hypothetical question that if a person is a proven successful geologist for a number of years and does not want to take the examination to be a registered geologist, would it affect his ability to practice geology? Mr. Peterson explained that there was a year long window that would apply to this type of situation.

Chairperson Glasscock recognized Jon Callen, President of Edmiston Oil Company, Inc. in Wichita, Kansas, who spoke as a proponent of **HB 2490**. He said that this was the fourth attempt and that there were three issues last year that stalled it. These three issues include □finances, petroleum exemption, and grandfathering. (Attachment 2.)

Questions followed concerning the grandfathering, the individuals who do not take the test, the meaning of the word "equivalent" to a four-year degree, and having one license to cover multiple types of expertise.

Chairperson Glasscock welcomed John F. Szturo, Chairman of the KC-Omaha □Section of the Association of Engineering Geologists, who spoke in support of **HB 2490**. He said that he feels it is a much needed Act and that standard qualifications are needed. He believes that **HB 2490** provides for these qualifications through experience and examination. (Attachment 3.)

The Chair recognized Steve Montgomery, Lawyer, Kansas Geological Society, who spoke as a proponent for **HB 2490**. He focused his testimony on the "grandfathering" which affects geologist currently in practice. He said that New Section 7 on pages 6 and 7 says that prior to July 1, 1998, applicants may be licensed without written examination if the following criteria is met: 1) a minimum of four year professional practice; and 2) an undergraduate degree in geology or a four year undergraduate degree with 30 semester hours or 45 quarter hours in geology. (Attachment 4.)

The Chair recognized Larry Skelton, President of Kansas Geological Society, who spoke in favor of **HB 2490**. He said that previous attempts to license geologists have encountered two primary objections: grandfathering and the exemption of petroleum geologists. He stated that he believes that licensing of geologists in Kansas is important because it will provide the citizens of Kansas assurance of having qualified professionals. (Attachment 5.)

The Chair recognized Keven Bailey, who spoke in support of **HB 2490** because he thinks the public needs accountability in the area of earth science through professional registration and licensing of geologists in the state of Kansas. (Attachment 6.)

Chairperson Glasscock recognized F. Doyle Fair, Consulting Petroleum Engineer, who appeared as an opponent to **HB 2490**. He said that **HB 2490** appears to have the exemption for petroleum geologists because they do not represent a threat to the public, but he asked why it is necessary to have an exception

within an exemption that says that all geological documents to public agencies must be sponsored by a licensed geologist. (Attachment 7.)

There being no other conferees, the Chair closed the Public Hearing on **HB 2490**.

The Chair announced that Representative Lisa Benlon's Subcommittee would be meeting in Room 521-S on Friday, March 14, 1997.

The meeting adjourned at 10:30 a.m.

The next meeting is scheduled for March 12, 1997.

GOVERNMENTAL ORGANIZATION & ELECTIONS COMMITTEE GUEST LIST

DATE: TUESDAY, MARCH 11, 1997

NAME	REPRESENTING
JON CALLEN	GEOLOGISTS
William Gilliland	Geologists
Lawrence H. SKelton	Kansas Geological Society
JOHN SZTURO	Association of Engineering Geologists
Alex A. Kotoyantz	KDOT (Retired)
Tom PALACE	KOMA
Bill Brysm	Kansas Geol. Soc.
Doyle Fair	Self
Trudy ARON	Am Inst of Architects
STAN PETERSON	BOARD OF TECHNICAL PROFESSIONS
Betty Rose	" " "
Chip Winslow	" " "

KANSAS STATE BOARD OF TECHNICAL PROFESSIONS

(913) 296-3053

Suite 507, Landon State Office Building 900 S.W. Jackson Street Topeka, Kansas 66612-1257

STATEMENT TO THE
HOUSE GOVERNMENTAL ORGANIZATION AND ELECTIONS COMMITTEE
by the
KANSAS STATE BOARD OF TECHNICAL PROFESSIONS
9:00 a.m., March 11, 1997 - Room 521-S

RE: House Bill 2490 - Regulation and Licensing of Geologists

The 1996 session of the Kansas Legislature recommended that the Geologists and the Kansas State Board of Technical Professions meet and work out their conflicts with the proposed legislation. As a result of that meeting, several items were agreed to but the grandfathering article was not. One item that was agreed to but was not included in H.B. 2490 was that new Section 5(b) was to read as indicated on page six of the balloon. This is a recommended amendment to this bill before the 1997 session, because of our concerns for the public, health, safety and welfare.

Furthermore, it is the Board's recommendation that the new Section 7 be stricken in its entirety. Again, this is recommended because of our concerns over the public health, safety and welfare and the need to have minimally qualified geologists in the State and not the quantity of geologists.

Our last recommended amendment is related to the implementation of this bill. We recommend the following be adopted as a part of the bill under a new Section 8 and dates elsewhere in the bill be modified to reflect this amendment.

(a) The board shall establish a geologist registration committee consisting of five members appointed by the chairperson of the board. This committee shall be comprised of two current board members and three geologists recognized by the State Geological Society, American association of petroleum geologists, Kansas Chapter, and/or the American institute of professional geologists. This committee shall be appointed July 1, 1997 and shall be funded.

(b) The committee shall be charged with the development of policies and procedures, review continuing education requirements, establish recommendations relative to NAFTA, establish and review recommended examinations, establish experience criteria, determine recommended time lines and establish communications with the Association of State Boards of Geologists (ASBOG).

(c) This committee will present to the Kansas State Board of Technical Professions' executive committee, a draft copy of policies and procedures, examination processes and costs, experience criteria and other elements for consideration and review by July 1, 1998.

House GO and E
Attachment 1
3-11-97

(d) The committee shall present a draft copy to the full board including any recommended modifications or additions to the statutes or proposed rules and regulations. This must occur October 1, 1998.

(e) Begin accepting applications to become registered geologists July 1, 1999.

(f) Committee shall begin review of applications and recommend action to be taken July 1, 1999 through July 1, 2000.

(g) Governor appoints geologist member to the board, replacing a current public member July 1, 2000. And registration of geologist begins July 1, 2000.

The Board of Technical Professions has prepared a balloon of House Bill 2490 (attached) to outline this proposed language. This is, of course, "suggested" language, and any actual language would need to be appropriately prepared by the Revisor of Statute's office. The Board has also prepared a statement page which is attached, outlining our concerns with a "grandfather" provision.

Thank you for your time.

REASONS FOR NOT "GRANDFATHERING"

Major reason: The purpose of the Board of Technical Professions is to safeguard the life, health, and safety of the public, and to establish and maintain a high standard of integrity, skills, and practice in the technical professions. One of the three criteria that the board utilizes in assuring the public that an applicant is minimally competent to practice a technical professions is to require passage of a national examination.

Other reasons:

- Today, there are national exams available. Previously, the board grandfathered individuals into the profession because there were no national exams available.

- The Board of Technical Professions has required as a disciplinary action for a licensee who had been "grandfathered in" to take and pass the national exam because their practice was determined to be incompetent. In at least one instance, the individual's license was revoked because he failed to pass that professional exam.

- The board currently has an average of 30 disciplinary cases which require exhaustive and expensive investigation reviews for each case. The majority of these cases relate to professionals who were grandfathered into a profession.

- The board would be setting a precedent to "grandfather" all other professions, or groups who may seek licensure under the Board of Technical Professions.

- Disadvantage for reciprocity applications-Since there is a national exam available, for the board to grant a license to an individual without requiring him to take and pass the national exam, is actually "hurting" that applicant in the future when he is denied for a license in another state for lack of passage of the national exam.

- The board would be opening the opportunity to anyone, not just individuals in Kansas, but all over the U.S., and possibly other countries, such as Canada and Mexico, to apply for a license without examination.

- Unfair to individuals who were not aware of the "grandfathering" window of opportunity. There may be individuals who have not been involved in this legislation and do now know they can receive a license if they apply in the first year without taking the exam, and if they miss the deadline would be required to take the test.

- Unfair to other professions who cannot meet today's minimum requirements of education, experience, and examination for a license (such as an individual who has an Interior Architecture degree), and now cannot apply for a license.

HOUSE BILL No. 2490

By Committee on Federal and State Affairs

2-20

AN ACT concerning the practice of geology; providing for licensure and regulation as a technical profession; amending K.S.A. 74-7005 and 74-7006 and K.S.A. 1996 Supp. 74-7003 and and 74-7013 and repealing the existing sections.

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

Section 1. K.S.A. 1996 Supp. 74-7003 is hereby amended to read as follows: 74-7003. As used in this act:

(a) "Technical professions" includes the professions of engineering, land surveying, architecture ~~and~~, landscape architecture *and geology* as the practice of such professions are defined in this act.

(b) "Board" means the state board of technical professions.

(c) "License" means a license to practice the technical professions granted under this act.

(d) "Architect" means a person whose practice consists of:

(1) Rendering services or performing creative work which requires architectural education, training and experience, including services and work such as consultation, evaluation, planning, providing preliminary studies and designs, overall interior and exterior building design, the preparation of drawings, specifications and related documents, all in connection with the construction or erection of any private or public building, building project or integral part or parts of buildings or of any additions or alterations thereto, or other services and instruments of services related to architecture;

(2) representation in connection with contracts entered into between clients and others; and

(3) observing the construction, alteration and erection of buildings.

(e) "Practice of architecture" means the rendering of or offering to render certain services, as described in subsection (d), in connection with the design and construction or alterations and additions of a building or buildings; the design and construction of items relating to building code requirements, as they pertain to architecture, and other building related features affecting the public's health, safety and welfare; the preparation and certification of any architectural design features that are required on plats; and the teaching of architecture by a licensed architect in a college

or university offering an approved architecture curriculum of four years or more.

(f) "Landscape architect" means a person who is professionally qualified as provided in this act to engage in the practice of landscape architecture, who practices landscape architecture and who is licensed by the board.

(g) "Practice of landscape architecture" means the performing of professional services such as consultation, planning, designing or responsible supervision in connection with the development of land areas for preservation and enhancement; the designing of land forms and nonhabitable structures for aesthetic and functional purposes such as pools, walls and structures for outdoor living spaces for public and private use; the preparation and certification of any landscape architectural design features that are required on plats; and the teaching of landscape architecture by a licensed landscape architect in a college or university offering an approved landscape architecture curriculum of four years or more. It encompasses the determination of proper land use as it pertains to: Natural features; ground cover, use, nomenclature and arrangement of plant material adapted to soils and climate; naturalistic and aesthetic values; settings and approaches to structures and other improvements; soil conservation erosion control; drainage and grading; and the development of outdoor space in accordance with ideals of human use and enjoyment.

(h) "Professional engineer" means a person who is qualified to practice engineering by reason of special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, who is qualified as provided in this act to engage in the practice of engineering and who is licensed by the board.

(i) "Practice of engineering" means any service or creative work, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, the teaching of engineering by a licensed professional engineer in a college or university offering an approved engineering curriculum of four years or more, engineering surveys and studies, the observation of construction for the purpose of assuring compliance with drawings and specifications, representation in connection with contracts entered into between clients and others and the preparation and certification of any engineering design features that are required on plats; any of which embraces such service or work, either public or private, for any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or consumer products or equipment

of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property. As used in this subsection, "engineering surveys" includes all survey activities required to support the sound conception, planning, design, construction, maintenance and operation of engineered projects, but excludes the surveying of real property for the establishment of land boundaries, rights-of-way, easements and the dependent or independent surveys or resurveys of the public land survey system.

(j) "Land surveyor" means any person who is engaged in the practice of land surveying as provided in this act and who is licensed by the board.

(k) "Practice of land surveying" includes:

(1) The performance of any professional service, the adequate performance of which involves the application of special knowledge and experience in the principles of mathematics, the related physical and applied sciences, the relevant requirements of law and the methods of surveying measurements in measuring and locating of lines, angles, elevation of natural and man-made features in the air, on the surface of the earth, within underground workings and on the bed of bodies of water for the purpose of determining areas, volumes and monumentation of property boundaries;

(2) the preparation of plats of land and subdivisions thereof, including the topography, rights-of-way, easements and any other boundaries that affect rights to or interests in land, but excluding features requiring engineering or architectural design;

(3) the preparation of the original descriptions of real property for the conveyance of or recording thereof and the preparation of maps, plats and field note records that represent these surveys;

(4) the reestablishing of missing government section corners in accordance with government surveys; and

(5) the teaching of land surveying by a licensed land surveyor in a college or university offering an approved land surveying curriculum of four years or more.

(l) "Person" means a natural person, firm, corporation or partnership.

(m) "Plat" means a diagram drawn to scale showing all essential data pertaining to the boundaries and subdivisions of a tract of land, as determined by survey or protraction. A plat should show all data required for a complete and accurate description of the land which it delineates, including the bearings (or azimuths) and lengths of the boundaries of each subdivision.

(n) "Geologist" means a person who is qualified to engage in the practice of geology by reason of knowledge of geology, mathematics and the supporting physical and life sciences, acquired by education and practical experience, who is qualified as provided in this act to engage in the prac-

tice of geology and who is licensed by the board.

(o) "Practice of geology" means:

(1) The performing of professional services such as consultation, investigation, evaluation, planning or mapping, or inspection, or the responsible supervision thereof, in connection with the treatment of the earth and its origin and history, in general; the investigation of the earth's constituent rocks, minerals, solids, fluids including surface and underground waters, gases and other materials; and the study of the natural agents, forces and processes which cause changes in the earth;

(2) the teaching of geology in a college or university offering an approved geology curriculum of four years or more by a person who meets the qualifications for education and experience prescribed by section 5 and amendments thereto; or

(3) representation in connection with contracts entered into between clients and others and the preparation and certification of geological information in reports and on maps insofar as it involves safeguarding life, health or property.

Sec. 2. K.S.A. 74-7005 is hereby amended to read as follows: 74-7005. (a) Membership of the board shall be as follows:

(1) Four members shall have been engaged in the practice of engineering for at least eight years and shall be licensed engineers. At least one of such members shall be engaged in private practice as an engineer. At least one of such members shall also be licensed as a land surveyor, as well as a licensed engineer.

(2) Two members shall have been engaged in the practice of land surveying for at least eight years and shall be licensed land surveyors.

(3) Three members shall be licensed architects of recognized standing and shall have been engaged in the practice of the profession of architecture for at least eight years, which practice shall include responsible charge of architectural work as principal.

(4) One member shall be a licensed landscape architect and shall have been engaged in the practice of landscape architecture for at least eight years, which practice shall include responsible charge of landscape architectural work as principal.

(5) *One member shall be engaged in the practice of geology, shall have been engaged in the practice of geology for at least eight years and, on and after ~~January 1, 1998~~, shall be a licensed geologist.*

July 1, 2000

(6) ~~Three~~ *Two* members shall be from the general public of this state.

(b) Each member of the board shall be a citizen of the United States and a resident of this state.

(c) The amendments to this section shall not be applicable to any member of the board who was appointed to the board and qualified for such appointment under this section prior to the effective date of this act.

Sec. 3. K.S.A. 74-7006 is hereby amended to read as follows: 74-7006. *(a)* Whenever a vacancy ~~shall occur~~ *occurs* in the membership of the board by reason of the expiration of a term of office, the governor shall appoint a successor of like qualifications. All appointments shall be for ~~a term~~ *terms* of four years, but no member shall be appointed for more than three successive four-year terms. ~~The term of each member first appointed after January 1, 1993, for the purpose of computing the length of the term of such member, shall commence on the first calendar day subsequent to the day of expiration of the preceding term, regardless of when the appointment is made, and shall end on June 30 of the fourth year of the member's term for those members whose terms commence on July 1, or on June 30 following the third full year of the member's term for those members whose terms commence on January 1. Thereafter, for the purpose of computing the length of term of a member of the board,~~

(b) The terms of members appointed to the board shall commence on the July 1 immediately following the day of expiration of the preceding term, regardless of when the appointment is made, and shall expire on June 30 of the fourth year of the member's term.

(c) Each *member* shall serve until a successor is appointed and qualified. Whenever a vacancy shall occur in the membership of the board for any reason other than the expiration of a member's term of office, the governor shall appoint a successor of like qualifications to fill the unexpired term.

(d) The governor may remove any member of the board for misconduct, incompetency, neglect of duty, or for any other sufficient cause.

Sec. ~~4.~~ 5 K.S.A. 1996 Supp. 74-7013 is hereby amended to read as follows: 74-7013. (a) The board may adopt all bylaws and rules and regulations, including rules of professional conduct, which are necessary for performance of its powers, duties and functions in the administration of this act.

(b) The board ~~may~~, through rules and regulations, *may* adopt, enforce, and audit mandatory continuing education as a condition for license renewal or reinstatement for each of the technical professions as determined by the board.

(c) ~~*Subject to the provisions of subsection (d),*~~ It ~~shall be~~ *is* the responsibility of the member or members of the board who hold a license to practice the profession for which an applicant seeks to be licensed, to provide and have graded any examination required by this act to be taken by such applicant.

~~*(d) Before January 1, 1998, it is the responsibility of the member of the board described in subsection (a)(5) of K.S.A. 74-7005 and amendments thereto to provide and have graded any examination required by*~~

Sec. 4. K.S.A. 74-7009 is hereby amended to read as follows: 74-7009. *(a)* The following nonrefundable fees shall be collected by the board:

(1) For ~~a~~ *an original* license, issued upon the basis of an examination given by the board, an application fee in the sum of ~~$25~~ *not more than $200* plus an amount, to be determined by the board, equal to the cost of ~~the respective~~ *any* examination *required by the board* in each branch of the technical professions.~~;~~

(2) for a license by reciprocity under K.S.A. 74-7024 and amendments thereto, an application fee of not more than $500;

(3) for a certificate of authorization for a corporation, the sum of not more than ~~$150.~~ *$300;*

(4) for the biennial renewal of a license, the sum of not more than ~~$50.~~ *$200; and*

(5) for the biennial renewal of a certificate of authorization for a corporation, the sum of not more than ~~$75~~ *$300*.

(b) On or before November 15, each year, the board shall determine the amount necessary to administer the provisions of this act for the ensuing calendar year including the amount to be credited to the state general fund, and shall fix the fees for such year at the sum deemed necessary for such purposes.

(c) The board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer at least monthly. Upon receipt of each such remittance the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the technical professions fee fund, which fund is hereby created. All expenditures from such 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 chairperson of the board or by a person or persons designated by the chairperson.

Delete (Unnecessary - restates K.S.A. 74-7013(c))

~~this act to be taken by an applicant for licensure to practice geology.~~

New Sec. 6. Minimum qualifications of applicants seeking licensure as geologists are the following:

(a) Graduation from a course of study in geology, or from ~~a program~~ which is of four or more years' duration and which includes at least 30 semester or 45 quarter hours of credit with a major in geology or a geology specialty, that is adequate in its preparation of students for the practice of geology;

(b) proof of at least four years of experience in geology of a character satisfactory to the board, as defined by rules and regulations of the board; and

(c) the satisfactory passage of such examinations in the fundamentals of geology and in geologic practice as utilized by the board.

New Sec. 7. The provisions of this act requiring licensure or the issuance of a certificate of authorization under K.S.A. 74-7036 and amendments thereto to engage in the practice of geology shall not be construed to prevent or to affect:

(a) The practice of geology by any person before July 1, 1998.

(b) The performance of geological work which is exclusively in the exploration for and development of energy resources and economic minerals and which does not ~~have a substantial impact upon~~ affect the public health, safety and welfare, as determined ~~pursuant to rules and regulations adopted~~ by the board, ~~nor require the submission of reports or documents to public agencies.~~

(c) The acquisition of engineering data, geologic data for engineering purposes and the utilization of such data by licensed professional engineers.

(d) Performance of work customarily performed by graduate physical or natural scientists.

~~New Sec. 7.~~ (a) Subject to the provisions of subsection (b), a person who applies for licensure as a geologist before July 1, 1998, shall be considered to be qualified for licensure, without further written examination, if the person has:

(1) Experience consisting of a minimum of four years of professional practice in geology or a specialty thereof, of a character acceptable to the board; and

(2) (A) graduated from an accredited institution of higher education with a bachelor of science or bachelor of arts or higher degree, with a major in geology; or

(B) graduated from an accredited institution of higher education in a four-year academic degree program other than geology, but with 30 semester hours or 45 quarter hours of credit in geology.

(b) A person who meets the qualifications of subsection (a), in the

New Section 8 (see page 7)

b-1

discretion of the board, may be required to take and pass an examination as required by this act if the person is not engaged in the practice of geology on July 1, 1997, and has not engaged in the practice of geology for at least four of the eight years immediately preceding July 1, 1997.

(c) Upon application, a person who is licensed, registered or certified as a geologist in another state having standards at least equal to those required for licensure as a geologist pursuant to this act may be issued a license as a geologist pursuant to this act.

(d) On and after July 1, 1997, and before July 1, 1998, upon application, a person who holds a valid certification from the American institute of professional geologists or the division of professional affairs of the American association of petroleum geologists may be issued a license as a geologist pursuant to this act.

Sec. 8.9. K.S.A. 74-7005 and 74-7006 and K.S.A. 1996 Supp. 74-7003 and 74-7013 are hereby repealed.

Sec. 9.10. This act shall take effect and be in force from and after its publication in the statute book.

New Sec. 8. (a) The board shall establish a geologist registration committee consisting of five members appointed by the chairperson of the board. This committee shall be comprised of two current board members and three geologists recognized by the State Geological Society, American association of petroleum geologists, Kansas Chapter, and/or the American institute of professional geologists. This committee shall be appointed July 1, 1997 and shall be funded.

(b) The committee shall be charged with the development of policies and procedures, review continuing education requirements, establish recommendations relative to NAFTA, establish and review recommended examinations, establish experience criteria, determine recommended time lines and establish communications with the Association of State Boards of Geologists (ASBOG).

(c) This committee will present to the Kansas State Board of Technical Professions' executive committee, a draft copy of policies and procedures, examination processes and costs, experience criteria and other elements for consideration and review by July 1, 1998.

(d) The committee shall present a draft copy to the full board including any recommended modifications or additions to the statutes or proposed rules and regulations. This must occur October 1, 1998.

(e) Begin accepting applications to become registered geologists July 1, 1999.

(f) Committee shall begin review of applications and recommend action to be taken July 1, 1999 through July 1, 2000.

(g) Governor appoints geologist member to the board, replacing a current public member July 1, 2000. And registration of geologist begins July 1, 2000.

EDMISTON OIL COMPANY, INC.
OIL OPERATORS
125 N. MARKET, SUITE 1310
WICHITA, KANSAS 67202-1774

E. K. EDMISTON *(1906-1995)*
JON M. CALLEN, *President*

(316) 265-5241
FAX (316) 265-7301

STATEMENT OF JON M. CALLEN, PRESIDENT
EDMISTON OIL COMPANY, INC.
before the
House Governmental Organizations & Elections Committee
March 11, 1997

RE: H.B. 2490 - Licensing of Geologists

I am Jon M. Callen, president of Edmiston Oil Company, Inc., in Wichita, Kansas. I am a licensed engineer in Kansas with a Bachelor of Science degree in Civil Engineering from the University of Kansas and a practicing geologist with a Master of Science degree in Geology from Wichita State University.

I am a member in good standing and past president of the **Kansas Society of Professional Engineers**. I am also a member of the **Kansas Geological Society**. The Kansas Geological Society has operated since its founding in 1923. It currently has approximately 800 members and operates a library of geologic data in Wichita, Kansas. Only degreed geologists can be members of the Society and approximately 25% of the membership has advanced degrees in geology.
I am not testifying on behalf of the Kansas Society of Professional Engineers, nor should any of my testimony be construed as an endorsement by the Kansas Society of Professional Engineers. They will testify their support of this bill through their representative. I am here to testify on House Bill 2490, using my experience as a private citizen to speak in favor of the bill. I support House Bill 2490, which would license geologists under the supervision of the **Kansas State Board of Technical Professions**.

The earth scientists and engineers are two complimentary professions. Earth scientists are not design professionals, thus they should not have a practice conflict with engineers. However, both the public and the engineering professions should want to ensure that geological knowledge is presented by qualified individuals. Geologists who are educated and experienced in engineering geology, environmental geology, and groundwater geology have become an increasingly important part of the civil engineer's team. As part of this team, geologists analysis has a direct affect on the engineering decisions made, therefore, also affect the public health, safety, and welfare.

Increased costs have caused many engineering curriculums to be "downsized" to exclude surveying and geology from their programs. Usually, what geology was taught was the introductory nature that did not relate to engineering geology. This makes it even more important to engineers that supporting scientists be licensed, not just to protect the public, but to also protect the engineers. The professional licensure of geologists whose practice is relevant to or supports the planning, design, operation, and maintenance of engineering works shifts the responsibility, accountability, and liability for geologic interpretations and conclusions from the engineer who uses the information to the geologist who created the information.

House GO and E
Attachment 2
3-11-97

This bill is now on its fourth attempt over 8 years for passage. The first attempts failed because the original bill was based on a national model that did not conform with Kansas' structure. In addition, there were several areas of conflict between the geology and engineering professions. The bill has been rewritten to conform with the structure of Kansas' law. In addition, the geology and engineering professions met during the summer of 1995 to resolve the areas of conflict in the language between the two professions. Those meeting included the leading representatives of the **Kansas Society of Professional Engineers, the Kansas Consulting Engineers,** and the **Kansas Geology Society.**

This bill, in its current form, was passed out of committee without a recommendation to the House floor. It passed the House last year on a floor vote with the greater than 2/3rds votes necessary. This is the same bill, reintroduced. The bill may be new to members of this committee, but it passed the House last year. It stalled in the Senate Committee over three issues: Financing, the Petroleum Exemption, and Grandfathering. I wish to address those issues separately.

FINANCES

The first issue seems to be over the finances. The Kansas State Board of Technical Professions is designed to be a self-governing body that relies on their registration fees for its funds. As an outsider, it is difficult to grasp a full understanding of the detail of running that quasi-public agency, but I believe that the issue falls to one of a few tens of thousands of dollars. The Kansas State Board of Technical Professions runs an austere budget and are to be applauded for it. They managed their affairs without a raise in fees for nearly a decade. Being a few thousand dollars short at the wrong time causes them great conflict. The geologists are well aware of that and believe that they have proposed fees that will allow the addition of the geologists to be self sufficient. The startup costs are the problem. But we're talking about a problem involving a few tens of thousands of dollars as a one time infusion into the Board to start up in a state budget of approximately $2 billion dollars. Surely, if it is the desire of the legislature to pass this bill, the issue of a few tens of thousands of dollars can be worked out.

PETROLEUM EXEMPTION

The second issue relates to the petroleum exemption. First, it is important to note that each profession supervised by the Board of Technical Professions has their own exemptions. Those are covered in **K.S.A. 74-7031 through 74-7034**, which I have attached to this testimony. Those exemptions have been adopted by each profession. The engineers have an exemption known as the "industrial exemption" which exempts approximately 65% of the engineers from the requirement of being licensed. In fact, most engineers working in the petroleum industry are able to do so because of the industrial exemption.

Each profession has been given the privilege of self determination and I believe that should extend to the geologists as well. Those geologists who practice in the area of "public works" projects alongside other licensed professionals, believe that their profession deserves the same protection and respect afforded the others. Surely if petroleum engineers can practice with licensure, petroleum geologists can practice with the requirement of a license.

GRANDFATHERING

The third item relates to grandfathering. This is a simple problem with complex answers. I believe that passing legislation, creating a new barrier for people to practice and earn their livelihood without grandfathering is most unfair. Geology is a profession, not a trade. One does not become a geologist by attending schools, or vocation training schools, or even community colleges. Under this bill, one has to have graduated from a college or university that has a four year curriculum in geology, PLUS have current experience requirements to be able to qualify for a license. This is not unlike the requirements of the Architects who are governed by the Board. In fact, Architects do not have a written requirement for an exam to become a licensed architect. So, licensure without an exam is not totally foreign to the Board of Technical Professions.

The issue of grandfathering seems to be the most passionate of the contentious items. I support it and believe that it is worthy of your support. Passage of the bill is the important. Passage of this bill creates a level of protection and restriction for geologists that does not now exist. No one will be able to qualify for a license without a college education. Experience and self instruction will no longer suffice. This could possibly eliminate qualified individuals from commercial enterprise as a geologist. Even those people who are to be grandfathered in will be required to have the equivalent of a 4 year college education, **plus** four years of current experience. No degree, no license. A degree and no current experience, no license.

Secondly, the only test currently recognized for its national scope is still in its infancy. It has not withstood the test of time that the exams given to the engineers enjoys. The pass rate of the national test has been very low across the country. One state is even considering abandoning the national test and adopting one of their own design. By adding education and experience requirements to the profession, Kansans won't be hurt by giving the geology profession more time to resolve their differences with the test.

Ultimately, failure to pass this legislation because of the conflict over grandfathering simply means there are **no restrictions whatsoever** on anyone who wants to call himself a geologist and practice in the area of environmental remediation, or water resources, or foundation design. I think this bill with grandfathering included is superior to having no bill at all..

In conclusion, I would recommend the committee vote favorably on this bill in its current form. The public will be better served by this bill than by no bill at all. I believe that passage of this bill is good for the people of Kansas, good for the profession of Geology, and should receive favorable action by this committee. Thank you for the opportunity to address you and share my views on this issue.

74-7031. Architecture; exemptions from requirements for licensure or certification; definitions. The provisions of this act requiring licensure or the issuance of a certificate of authorization under K.S.A. 74-7036 and amendments thereto to engage in the practice of architecture shall not be construed to prevent or to affect:

(a) The practice of any person engaging in the publication of books or pamphlets illustrating architectural designs.

(b) Persons preparing plans, drawings or specifications for one and two family dwellings or for agricultural buildings.

(c) Persons furnishing, individually or with subcontractors, labor and materials, with or without plans, drawings, specifications, instruments or service, or other data concerning the labor and materials to be used for any of the following as long as the utilization of the uniform building code or life safety code, as currently adopted by the division of architectural services of the state of Kansas is not required:

(1) Store fronts or facades, interior alterations or additions, fixtures, cabinet work, furniture, appliances or other equipment;

(2) work necessary to provide for installation of any item designated in subsection (c)(1);

(3) alterations or additions to a building necessary to or attendant upon installation of any item designated in subsection (c)(1), if the alteration or addition does not change or affect the structural system of the building, which structural system includes, but is not limited to, foundations, walls, floors, roofs, footings, bearing partitions, beams, columns or joists.

(d) Work involving matters of rates, rating and loss prevention by employees of insurance rating organizations and insurance service organizations and insurance companies and agencies.

(e) The performance of services by a licensed landscape architect or corporation issued a certificate of authorization to provide services in landscape architecture under K.S.A. 74-7036 and amendments thereto in connection with landscape and site planning for the sites, approaches or environment for buildings, structures or facilities.

(f) For the purposes of this section:

(1) "Building" means any structure consisting of foundation, floors, walls, columns, girders, beams and roof, or a combination of any number of these parts, with or without other parts and appurtenances thereto, including the structural, mechanical and electrical systems, utility systems, and other facilities as may be required for the structure.

(2) "Agricultural building" means any structure designed and constructed to house hay, grain, poultry, livestock or other horticultural products for farm storage of farming implements. Such structure shall not be a place for human habitation or a place of employment where agricultural products are processed, treated or packaged; nor shall it be a building or structure for use by the public.

History: L. 1978, ch. 326, 23; L. 1980, ch. 244, 10; L. 1992, ch. 240, 20; Jan. 1, 1993.

74-7032. Landscape architecture; exemptions from requirements for licensure or certification. The provisions of this act requiring licensure or the issuance of a certificate of authorization under K.S.A. 74-7036 and amendments thereto to engage in the practice of architecture shall not be construed to prevent or to affect:

(a) The right of any individual to engage in the occupation of growing and marketing nursery stock or to use the title nurseyman, landscape nurseyman or gardener, or to prohibit any individual to plan or plant such individual's own property.

(b) The right of nurserymen to engage in the preparing and executing planting plans.

(c) The practice of site development planning, in accordance with the practice of architecture, or the practice of engineering.

History: L. 1978, ch. 326, 24; L. 1980, ch. 244, 11; L. 1992, ch. 240, 21; Jan. 1, 1993.

74-7033. Engineering; exemptions from requirements for licensure or certification. The provisions of this act requiring licensure or the issuance of a certificate of authorization under K.S.A. 74-7036 and amendments thereto to engage in the practice of architecture shall not be construed to prevent or to affect:

(a) The design or erection of any structure or work by the owner thereof, upon such owner's own premises for such owner's own use.

(b) Persons preparing plans, drawings or specifications for one or two family dwellings or for agricultural buildings.

(c) Persons engaged in planning, drafting and designing of products manufactured for resale to the public.

(d) The performance of services by a licensed landscape architect in connection with landscape and site planning for the sites, approaches or environment for buildings, structures or facilities.

History: L. 1978, ch. 326, 25; L. 1980, ch. 244, 12; L. 1992, ch. 240, 22; Jan. 1, 1993.

74-7034. Land surveying; exemptions from requirements for licensure or certification. The provisions of this act requiring licensure or the issuance of a certificate of authorization under K.S.A. 74-7036 and amendments thereto to engage in the practice of architecture shall not be construed to prevent or to affect:

(a) Surveying, other than land surveying where such surveying is incidental to the design or construction of engineering or architectural works.

(b) The practice of land surveying by an individual of such individual's own real property or that of such individual's employer for purposes other than the conveyance of an interest in such real property.

(c) The surveying on farms for agricultural purposes other than the conveyance of an interest in such farm property.

(d) The performance of services by a licensed landscape architect or by a corporation issued a certificate of authorization to provide services in landscape architecture under K.S.A. 74-3036 and amendments thereto in connection with landscape and site planning for the sites, approaches or environment for buildings, structures or facilities.

History: L. 1978, ch. 326, 26; L. 1980, ch. 244, 13; L. 1992, ch. 240, 23; Jan. 1, 1993.

Association of Engineering Geologists
KANSAS CITY — OMAHA SECTION

Reply to:
John F. Szturo, HNTB Corp., 1201 Walnut, Suite 700, Kansas City, Missouri 64106

March 11, 1997

Kansas House Governmental Organization and Elections Committee

RE: House Bill 2490 - Geologists Practices Act of 1997

Dear Committee Members:

As chairman of the Kansas City - Omaha Section, of the Association of Engineering Geologists, I am providing testimony in favor of House Bill 2490. The Kansas City - Omaha Section represents 80 engineering geologists in the States of Kansas, Missouri, Nebraska, Iowa, South Dakota, and North Dakota. The Association of Engineering Geologists, nationally, represents over 2500 professionals in engineering, environmental, and ground water geology.

The geologists of the AEG apply their scientific training and experience to the broad field of civil engineering. Engineering geologists work in close coordination with construction, foundation, highway and hydraulic engineers. AEG members are also involved in the development and protection of safe public drinking water and aquifers. They also assist in the detection and disposal of hazardous wastes. Many of the works associated with these professionals involve foundations for bridges, dams, power plants, large buildings and towers. They also interpret geologic conditions for tunnels, highways, railroads and pipelines. They evaluate geologic hazards such as bridge foundation scour (one of the leading causes of bridge failure), landslides, faults, earthquakes, radon, asbestos, ground subsidence, caverns, as well as expansive and collapsing soils. They also evaluate safe disposal of waste to the earth, land use planning and environmental impact analysis.

The Engineering Geologist bears an important share of the responsibility for the public health safety and welfare insofar as engineering works are affected by geologic factors.

As chairman of the local section of Association of Engineering Geologists, and as a geologist working in Kansas, I would like to voice my support for this much needed Act. Many of the states adjacent to Kansas currently recognize the need

House GO and E
Attachment 3
3-11-97

and register geologists. As a matter of fact, 25 states now have active registration laws. These laws provide for the suspension and punishment of unethical and unqualified practice. Another fact is 135 of the 911 geologists recently registered in Missouri have a Kansas mailing address. Clearly, these Kansas geologists have met the standards required by surrounding states. Kansas should also regulate the geologists who come to practice in this state. Many of these states laws are similar in format to those which exist in all states for the engineering profession. Additionally, the American Society of Civil Engineers (ASCE) in a 1995 policy statement, supports the registration of geologists. Their position is based on their need for competent geologic data to base engineering decisions. Standard qualifications are also needed for geologists. This Act provides for these qualifications through experience and examination.

The issue of grandfathering is an often asked question in new registration acts. Licensing during the short grandfathering period includes rigid educational requirements and several years of experience as well as a review of each applicant. Over the long term, The Act will provide for qualified, examined geologists for Kansas.

The citizens of Kansas deserve qualified professional geologists to oversee man's interaction with the environment. They also deserve sound, judgment when it comes to safe water, disposing of contaminants, waste management, design, construction and operation of fixed engineering projects, as well as identification of geologic hazards. Passage of the HB 2490 will further insure the protection of the citizens of Kansas by providing qualified professionals to make these judgments and assessments.

Respectfully submitted

John F. Szturo
Chairman, Kansas City - Omaha Section,
Association of Engineering Geologists

LAW OFFICES

STEVEN C. MONTGOMERY, Chartered

Mercantile Bank Tower, Suite 808
800 SW Jackson Avenue
Topeka, Kansas 66612-2220
913/235-2422
FACSIMILE 913/234-3687

Email smont@kspress.com

TO: House Governmental Organization & Elections Committee

FROM: Steve Montgomery, Kansas Geological Society

RE: HB No. 2490

DATE: March 11, 1997

Background on the Kansas Geological Society

The Kansas Geological Society is a not for profit organization with its main office located in Wichita. The Society was originally organized in 1923 for the purpose of providing support and education for its members. Its current membership consists of approximately 800 geologists located throughout the State of Kansas.

Background of HB 2490

During the 1996 Legislative Session, another measure identical to HB 2490 passed the full House. 1996 HB 2471 then died in the Senate Committee without committee action on the bill. The purpose for licensing geologists is similar to the purpose for licensing other professions. That is, when the work done by professionals impacts the public health, safety and welfare to a critical extent, sound public policy demands that the professional group implement licensing procedures together with competency requirements. Geologists presently are responsible for the earth conditions of projects such as tunnels, highways, pipelines, bridges and dams; all of which require professional services of the highest competence.

House GO and E
Attachment 4
3-11-97

"Grandfathering" Geologists Currently In Practice.

Newly implemented licensing of professions inevitably raises the issue of licensure criteria for new professionals and for people currently in the profession. Regardless of the profession, there is a general recognition that there are current professionals who are imminently qualified and competent to acquire their license without written examination. The pre-existing competence arises from a combination of education and experience.

New Section 7 at pps. 6-7 of the bill addresses the issue of grandfathering. Applicants prior to July 1, 1998 may be licensed without written examination if the following criteria is met:

1. A minimum of four years professional practice; and

2. An undergraduate degree in geology or a four year undergraduate degree with 30 semester hours or 45 quarter hours in geology.

At lines 1-7 on page 7, the Board of Technical Professions is granted the discretion to require written testing if an applicant was not in practice on July 1, 1997, and not practicing for at least four of the eight preceding years. HB 2490 blends educational and practice requirements to assure that any geologist eligible to be licensed via "grandfathering" must meet extremely high competency standards. Additionally, New Section 7 (c) provides that geologists from foreign jurisdictions may become licensed in Kansas without written examination only if the licensing standards in their home jurisdiction were at least as strenuous as those in Kansas. These provisions assure that a minimum level of competency will exist for those currently practicing geology in Kansas regardless of whether their home jurisdiction is in Kansas.

Summary

In a time when professions are often criticized for not policing their own, it is refreshing to see that the geologists are interested in imposing levels of competency upon themselves consistent with their public responsibilities. The public will be the ultimate beneficiary. On behalf of the Kansas Geological Society, I urge your favorable consideration of HB 2490.

TESTIMONY
of
Lawrence H. Skelton

HOUSE BILL 2490
before
House Governmental Organization and Elections Committee

March 11, 1997

Mr. Chairman, members of the Committee: I am Lawrence Skelton and am appearing before you as president of the Kansas Geological Society. I am speaking in support of House Bill 2490. The Kansas Geological Society is a professional organization of geologists and has been in continuous existence since 1923. It presently has more than 800 members who are engaged in oil and gas exploration, environmental evaluation and remediation, water resource development, and mining. Our membership also includes geologists who are employed by several state, county and city agencies or who teach at the secondary or university level. All active Kansas Geological Society members hold at least a baccalaureate degree in geology or earth sciences. About a fifth of the members have masters degrees and 25 hold a doctorate degree in geology. The licensing or registration of geologists is presently required in 23 states, as shown on the attached map, and is in the legislative process in ten others. One of the ten is Nebraska where numerous Kansas geologists occasionally are employed. The state of Missouri which has required registration only for the past two years presently lists 130 some Kansas residents among those registered geoscientists authorized to practice their science in that state. Polls of our membership show continuing and strong support for a process to establish minimum standards for the practice of geology in the state of Kansas. We believe that House Bill 2490 does just that.

In Kansas, previous attempts to register or license geologists have encountered two principal objections: grandfathering and the exemption of petroleum geologists from mandatory registration. The dictionary defines a grandfather clause as "a clause in some legislation forbidding or regulating a certain activity, which exempts those already engaged in it before the legislation was passed." A specific objection is an opinion that a knowledge-specific test should be applied across-the-board to all geologists seeking registration and that "grandfathering" per se should not be allowed by this bill. Responses to this argument are first: that the four professions currently overseen by the Kansas Board of Technical Professions, which logically would oversee geologists, all had grandfathering periods before the imposition of formal testing; second, the other geologist-registering states had initial grandfathering periods...in fact, many Kansas geologists who don't work in those states licensed themselves during the grandfathering periods in case they should ever work there and to take advantage of reciprocity agreements among the registering states. Third, and legally perhaps the most important aspect, is that failure to grandfather could place the State in the tenuous legal position of denying a person their livelihood by prohibiting them from practicing their profession. Finally, the education and experience factors required by sections 4B and 5 of HB 2490 speak for a quality factor that should obviate problems such as the Kansas Board of Technical Professions encountered by grandfathering surveyors. Historically, in most cases when certification is newly required by a state, the grandfather clause is instituted to protect experienced professionals and allow them to continue

with the work they are doing.

The second previous objection to the presented bill is the energy and economic geologist exclusion in Section 6B. A petroleum geologist is "a geologist engaged in the exploration or production process of hydrocarbon fuels," that is, oil and natural gas. Their employment does not directly affect the public health, safety and welfare of Kansas which HB 2490 principally addresses. Rationale for exempting these geologists from mandatory registration is that petroleum geology practices are already overseen in all aspects by the Kansas Corporation Commission and the Kansas Department of Health and Environment. Petroleum geologists like mechanical or most other engineers are usually employed by companies and thus are not usually in personal business contact with the public; that is to say, they practice their science for the company. In fact, comparing the Wichita chapter directory of the Society of Petroleum Engineers to a list of registered professional engineers supplied by the Kansas Board of Technical Professions indicates that approximately 75% of petroleum engineers in the Wichita area are not registered P.E.'s. Additionally, studies performed by the National Society of Professional Engineers show that approximately 2/3's of all engineers legally practice without a license because of an industrial exemption. The company has direct contact with the public and its corporate activities not only are regulated as above in realms of health and safety but also its public dealings are closely controlled by the Kansas Securities Commission. This is why petroleum geologists and geologists in other extractive industries are not required to be registered in all other states. Many of the Kansas Geological Society members under the age of 45 indicate that they plan to register under this or a similar bill even if exempt from doing so.

Subpart F, part 265.90 of the amended Federal Resource Conservation and Recovery Act (RCRA) applies to surface impoundments, landfills or facilities used to manage hazardous wastes. It requires a groundwater monitoring program which can be waived if a written demonstration certifies that there is low potential for hazardous waste to migrate to the nearest water supply aquifer or to surface water. The written demonstration which must be kept on site must be, and I quote, "certified by a qualified geologist or geotechnical engineer." It seems that what constitutes a qualified geologist or geotechnical engineer may be legally moot in a state without some kind of geologists' registration or certification program. Several times I have been asked to provide geological data to totally unqualified people, an accountant and a biologist among them, who were sent to Wichita by their company to perform environmental site assessments.. The Kansas Geological Society believes that the geological parts of environmental assessments must be made by qualified persons, that is, by educated geologists who are certifiably experienced in the proper phases of their science.

In summary, the Kansas Geological Society believes that the licensing or registration of geologists in Kansas is important and will provide the citizens of our state assurance of having qualified professionals to deal with groundwater and other environmental quality protection problems. Environmental laws relating to those subjects will continue to be passed at all levels of government and it is a certainty that compliance with those laws will hinge on well-conceived geological investigations and applications.

Mr. Chairman, I sincerely thank you and the members of this committee for the opportunity to testify in support of the passage of House Bill 2490. I will be pleased to address any questions.

ATTACHMENTS

1. Map showing licensing for geologists. Based on data as of 20 February 1997 provided by the American Institute of Professional Geologists, 7828 Vance Drive - Suite 103, Arvada, Colorado, 80003.

2. Article 265.90 of the U.S. Resource Conservation and Recovery Act (RCRA) copied from page 231 of *RCRA Regulations and Keyword Index,* 1994 edition, published by Elsevier Science, Inc., New York, N.Y.

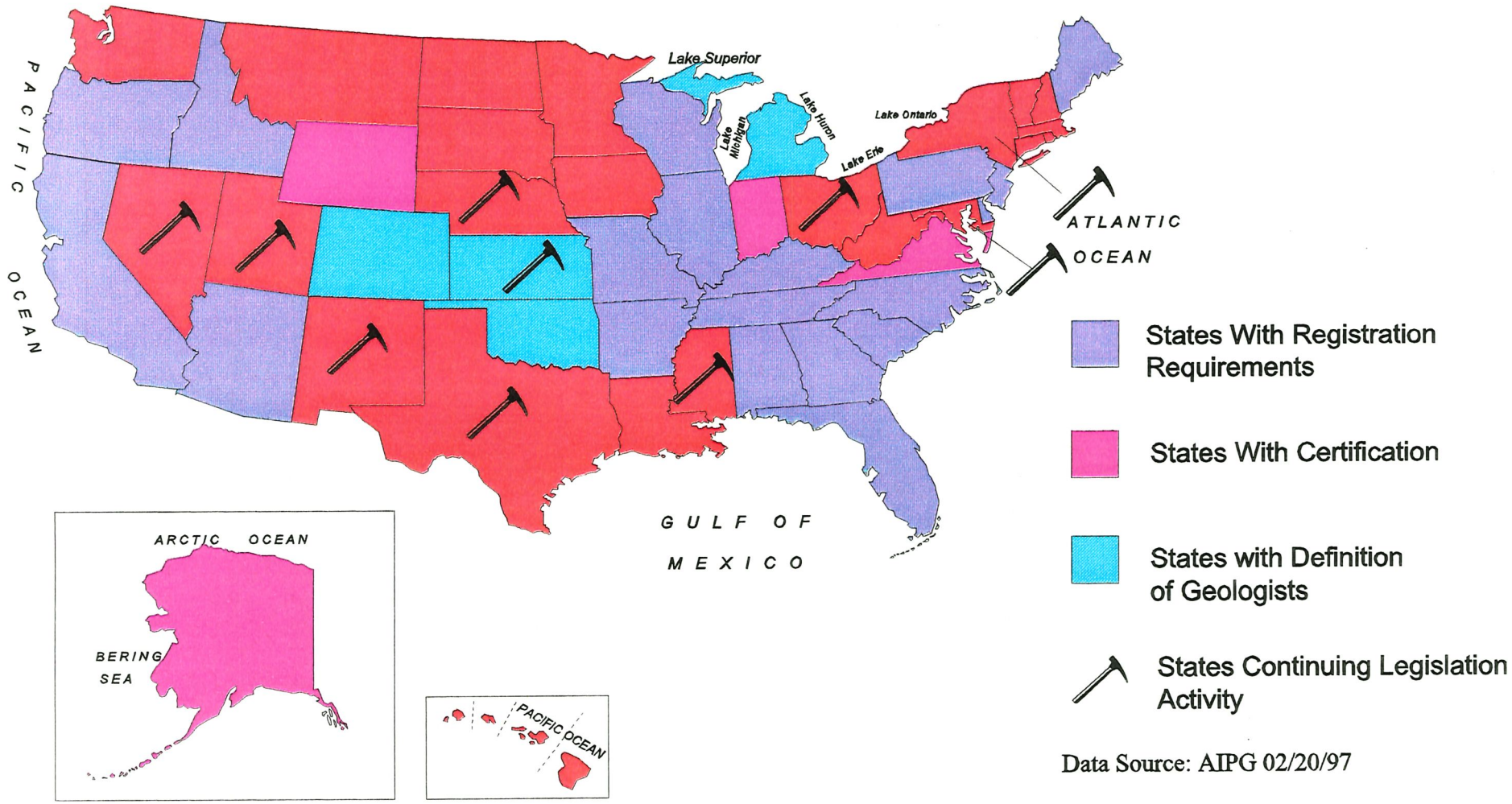
3. Definitions

4. [Grandfathering] Issues upon admission of a profession to Board of Technical Professions Supervision. Prepared by Boyd W. Howard, Attorney at Law in March, 1996, for Mr. Paul Gunzelman of the Kansas Geological Society. This testimony was presented by Mr. Gunzelman in supporting 1996 House Bill 2471, a predecessor of current House Bill 2099. The 1996 bill was passed by the House but, late in the session, failed to be passed by committee in the Kansas Senate.

5. *Viewpoint - License geologists to help engineers:* The newspaper of the National Society of Professional engineers, April, 1996.

6. Comparison of Proposed Kansas Geologist Act with Requirements in other states. Prepared May, 1996 by Association of Engineering Geologists' Committee on Professional Licensure.

STATUS OF LICENSING FOR GEOLOGISTS



Data Source: AIPG 02/20/97

ATTACHMENT 1

(b) Ground-water contamination and monitoring data as specified in §§ 265.93 and 265.94; and

(c) Facility closure as specified in § 265.115.

(d) As otherwise required by Subparts AA and BB.

[45 FR 33232, May 19, 1980, as amended at 48 FR 3982, Jan. 28, 1983; 55 FR 25507, June 21, 1990]

Subpart F—Ground-Water Monitoring

§ 265.90 Applicability.

(a) Within one year after the effective date of these regulations, the owner or operator of a surface impoundment, landfill, or land treatment facility which is used to manage hazardous waste must implement a ground-water monitoring program capable of determining the facility's impact on the quality of ground water in the uppermost aquifer underlying the facility, except as § 265.1 and paragraph (c) of this section provide otherwise.

(b) Except as paragraphs (c) and (d) of this section provide otherwise, the owner or operator must install, operate, and maintain a ground-water monitoring system which meets the requirements of § 265.91, and must comply with §§ 265.92 through 265.94. This ground-water monitoring program must be carried out during the active life of the facility, and for disposal facilities, during the post-closure care period as well.

(c) All or part of the ground-water monitoring requirements of this subpart may be waived if the owner or operator can demonstrate that there is a low potential for migration of hazardous waste or hazardous waste constituents from the facility via the uppermost aquifer to water supply wells (domestic, industrial, or agricultural) or to surface water. This demonstration must be in writing, and must be kept at the facility. This demonstration must be certified by a qualified geologist or geotechnical engineer and must establish the following: RCRA 160

(1) The potential for migration of hazardous waste or hazardous waste constituents from the facility to the uppermost aquifer, by an evaluation of:

(i) A water balance of precipitation, evapotranspiration, runoff, and infiltration; and

(ii) Unsaturated zone characteristics (i.e., geologic materials, physical properties, and depth to ground water); and

(2) The potential for hazardous waste or hazardous waste constituents which enter the uppermost aquifer to migrate to a water supply well or surface water, by an evaluation of:

(i) Saturated zone characteristics (i.e., geologic materials, physical properties, and rate of ground-water flow); and

(ii) The proximity of the facility to water supply wells or surface water.

(d) If an owner or operator assumes (or knows) that ground-water monitoring of indicator parameters in accordance with §§ 265.91 and 265.92 would show statistically significant increases (or decreases in the case of pH) when evaluated under § 265.93(b), he may, install, operate, and maintain an alternate ground-water monitoring system (other than the one described in §§ 265.91 and 265.92). If the owner or operator decides to use an alternate ground-water monitoring system he must:

(1) Within one year after the effective date of these regulations, submit to the Regional Administrator a specific plan, certified by a qualified geologist or geotechnical engineer, which satisfies the requirements of § 265.93(d)(3), for an alternate ground-water monitoring system;

(2) Not later than one year after the effective date of these regulations, initiate the determinations specified in § 265.93(d)(4);

(3) Prepare and submit a written report in accordance with § 265.93(d)(5);

(4) Continue to make the determinations specified in § 265.93(d)(4) on a quarterly basis until final closure of the facility; and

(5) Comply with the recordkeeping and reporting requirements in § 265.94(b).

(e) The ground-water monitoring requirements of this subpart may be waived with respect to any surface impoundment that (1) Is used to neutralize wastes which are hazardous solely because they exhibit the corrosivity characteristic under § 261.22 of this chapter or are listed as hazardous wastes in Subpart D of Part 261 of this chapter only for this reason, and (2) contains no other hazardous wastes, if the owner or operator can demonstrate that there is no potential for migration of hazardous wastes from the impoundment. The demonstration must establish, based upon consideration of the characteristics of the wastes and the impoundment, that the corrosive wastes will be neutralized to the extent that they no longer meet the corrosivity charac-

ATTACHMENT 3

DEFINITIONS AND SOURCES

Earth science - Any of various sciences, as geology or meteorology, dealing with the earth or its non-living components. Source: adapted from Webster's New World Dictionary, Third College Edition, page 426.

Engineering geology - The application of the geological sciences to engineering practice for the purpose of assuring that the geologic factors affecting the location, design, construction, operation and maintenance of engineering works are recognized and adequately provided for. Source: Dictionary of Geological Terms, page 144.

Geologist - A person versed in geology or engaged in geological study or investigation. Source: Dictionary of Geological Terms, Revised Edition, American Geological Institute, 1976, page 183.

Geology -The science dealing with the physical nature and history of the earth. Source: Webster's New World Dictionary, Third College Edition, 1988, Simon and Schuster, page 564.

Geotechnical engineer - Synonymous with engineering geologist/geological engineer per personal communication with Dr. James Underwood, Professor Emeritus of Geology and former chairperson, Department of Geology, Kansas State University.

Grandfather clause - A clause in some legislation forbidding or regulating a certain activity, which exempts those already engaged in it [i.e., the activity]. Source: Webster's New World Dictionary, Third College Edition, page 586.

Petroleum geologist - A geologist engaged in the exploration or production processes of hydrocarbon fuels [i.e. oil and natural gas]. Source: Dictionary of Geological Terms, page. 324.

ATTACHMENT 4

Boyd W. Howard
Attorney At Law
1010 N. Main, Suite 2
Wichita, Kansas 67203
(316) 263-5267
FAX (316) 267-4331

March 11, 1996

Mr. Paul Gunzelman
Kansas Geological Society
125 N. Market, Suite 1255
Wichita, KS 67202-1712

Re: Issues upon admission of a profession to
Board of Technical Professions supervision

Dear Paul:

Pursuant to your request, I have researched issues regarding the circumstances when professional organizations first come under the supervision and licensing requirements of the State. I have researched the so-called "grandfather" clauses which dealt with the persons who were already practicing in their professions at the time of the enactment of legislation that brought them under the supervision of state agencies. The state granted licenses to those people, but still had some light eligibility requirements for them. I located those statutes as well as those designating the regular eligibility requirements for licensing for those applying for licenses after the expiration of the grandfather periods.

1. LENGTH OF GRANDFATHER PERIODS

There are four professions, as you are aware, being supervised by the Board of Technical Professions: architects, engineers, land surveyors and landscape architects. Beginning with the engineers in 1947, the State of Kansas assumed a role in licensing and supervising each of those professions. The people practicing in those areas at the time the State decided to assume this licensing role were granted licenses through what is commonly referred to as a grandfather clause. In other words, they were not required to demonstrate their abilities by being tested, as was required after the expiration of the grandfather periods.

In each case, the grandfather clause lasted one year, beginning at the effective date of the legislation. Below is a chart showing the pertinent dates for each profession now supervised by the Board.

PERTINENT DATES OF ENABLING STATUTES

PROFESSION	DATE LEGISLATION APPROVED	DATE LEGISLATION TOOK EFFECT	FORMAL APPLICATION AND TESTING REQUIRED
Architects	April 2, 1949	July 1, 1949	July 1, 1950
Engineers	April 9, 1947	June 30, 1947	June 30, 1948
Land Surveyors	March 13, 1968	July 1, 1968	July 1, 1969
Landscape Architects	March 15, 1968	July 1, 1968	July 1, 1969

Note that, unlike the other professions, the landscape architects were given the incentive to get their licenses through the grandfather clause by January 1 of the year following the effective date of the legislation (1969). They could still obtain their licenses through the grandfather clause after that date, but if they did not, they could not hold themselves out as landscape architects. Restated, they could not hold themselves out to be landscape architects without first getting their license through their grandfather clause after January 1, 1969. Presumably, the other professions could hold themselves out as professionals without first obtaining their state licenses during their respective grandfather periods, as this incentive clause does not appear in the other statutes.

2. REQUIREMENTS FOR ADMISSION UNDER GRANDFATHER CLAUSES

Each bill bringing the various professions under State supervision deals with the issue of granting licenses to persons practicing their profession at the time of the effective date of the legislation in question. The portion of the bills dealing with this issue are very similar. Each of the four bills required the applicant desiring to be admitted under a grandfather clause, as opposed to the licensing clauses, to submit evidence to the supervisory board that the applicant: 1) was of good character, and 2) had been a resident of Kansas for the year immediately preceding their application.

The bills dealing with architects, surveyors and landscape architects state require that the applicants show that they had "been in responsible charge of" their respective kinds of work. The bills dealing with engineers and architects require that the applicant actually have been practicing their profession at the time of the effective date of the legislation. Below is a summary of the requirements under the various grandfather clauses:

REQUIREMENTS: ADMISSION WITHOUT TESTING

PROFESSION	GOOD CHARACTER SHOWING REQUIRED	KANSAS RESIDENT ONE YEAR PRIOR TO APPLICATION	RESPONSIBLE CHARGE OF WORK IN QUESTION	PRACTICING AT EFFECTIVE DATE OF STATUTE
Architects	Yes	Yes	Yes	Yes
Engineers	Yes	Yes	No	Yes
Land Surveyors	Yes	Yes	Yes	No
Landscape Architects	Yes	Yes	Yes	No

Note, that the language requiring that the applicant be in "responsible charge" of the work in questions would seem to indicate that the applicant actually be practicing at the time of the legislation. Consequently, as a practical matter, the land surveyors and landscape architects were almost certainly required to have been practicing in their professions at the

time of the effective date of the legislation. The language requiring the architects to be both in responsible charge of work, and practicing architecture appears to be redundant.

3. REQUIREMENTS: APPLICATION THROUGH THE TESTING PROCESS

Each of the bills bringing the various professions under the Board established certain minimum requirements before an applicant was eligible to apply for admission. Each of them required either graduation from an appropriate college or university, or practical experience, or a mixture of the two, except for the bill regarding the architects. That statute did not give credit for school years short of getting a degree. The architects could either get a degree, or get some experience, but could not substitute one for the other. The enabling legislation for the architects is also the only one not giving credit for teaching in the applicant's chosen field.

Architects:

a) graduation, in architecture, from a Kansas Regents institution, or from an architectural school accredited by the national architectural accrediting board;
b) Seven years of practical experience of a character satisfactory to the Board.

Engineers:

a) graduation from a college or university having a 4 year curriculum in engineering approved by the Board as of satisfactory standing;
b) completion of 8 years of work in the practice of engineering of a grade and character satisfactory to the Board, and passing a written examination designed to show that he is qualified to practice engineering (NOTE: THE ACT IS NOT CLEAR AS TO WHETHER THIS EXAM IS DIFFERENT FROM THE ONE GIVEN BY THE BOARD -- I ASSUME THEY ARE ONE AND THE SAME);
c) completion of 12 years of work in the practice of engineering of a grade and character satisfactory to the Board. The applicant must be at least 35 years of age if applying under this section;
d) each year of teaching equals one year of practical experience;
e) each year of successful completion of a college or university having a 4 year curriculum in engineering approved by the Board as of satisfactory standing, without having graduated from that school, shall be considered as equivalent to one year of actual practice. Graduation from a college of recognized standing with a degree other than engineering shall equal two years of practical experience.

Landscape Architects:

a) graduation from an approved college or university having a 4 year curriculum in landscape architecture and having a minimum of 2 years of training experience of landscape architectural work of a grade and character satisfactory to the Board;

b) graduation from a college having an approved 5 year curriculum in landscape architecture and having a minimum of 1 year of training experience of landscape architectural work of a grade and character satisfactory to the Board;
c) having completed 7 years of work in the practice of landscape architecture of a grade and character satisfactory to the Board. Each one year of completed in a school of landscape architecture approved by the board shall be considered to be equivalent to one year of actual practice. Graduation in a curriculum other than landscape architecture shall be equivalent to 2 years experience of the 7 specified above in this paragraph, up to a maximum of 2 years of practical experience;
d) graduation from a school of landscape architecture, if approved by the Board, provided that evidence of 5 years of actual practical experience is provided. (NOTE: I ASSUME THIS SECTION REFERS TO GRADUATION FROM A SCHOOL NOT APPROVED BY THE BOARD. THIS IS THE ONLY PROFESSION TO USE THIS CLAUSE)

Land Surveyors:

a) graduation from a college or university having a 4 year curriculum in engineering or surveying and passing a written examination of at least 8 hours designed to show that he is qualified to practice land surveying;
b) graduation from a college having a 2 year curriculum in land surveying as approved by the Board (of Technical Professions) and passing a written examination of at least 8 hours designed to show that he is qualified to practice land surveying;
c) having completed 6 years of work in the practice of land surveying of a grade and character satisfactory to the Board, and passing a written examination of at least 8 hours designed to show that he is qualified to practice land surveying. Each one year completed in a school of land surveying approved by the board shall be considered to be equivalent to one year of actual practice, up to a maximum 4 years credit. Teaching land surveying in an accredited engineering or surveying curriculum may be considered as one year's worth of actual experience.

MINIMUM REQUIREMENTS BEFORE APPLYING FOR LICENSE BY EXAM

PROFESSION	COLLEGE DEGREE	YEARS OF EXPERIENCE AS SUBSTITUTE FOR DEGREE	CREDIT FOR NON-DEGREE COLLEGE WORK	CREDIT FOR TEACHING AS PRACTICAL EXPERIENCE
Architects	Yes	7	No	No
Engineers	Yes	12 (age at least 35)	Yes (year for year)	Yes
Land Surveyors	Yes	6	Yes (max. of 4 yr.s)	Yes
Landscape Architects	Yes	7	Yes (max. of 2 yr.s)	No

Note that although the legislation concerning the architects and landscape architects did not specifically give credit for time spent teaching, it is conceivable that the licensing

authorities at the time may have exercised their discretion, and included "teaching" within the definition of practical experience.

I have attached copies of the session laws and statutes regarding the admissions standards. You may recall from an earlier discussion that copies of the statutes, particularly the older ones, are not available on short notice locally, and that the Session Laws are generally regarded as authoritative. If you have questions, I'll be available this evening, and most of the day Tuesday. Good luck!

Sincerely,

Boyd W. Howard
BWH/moh
encl.

VIEWPOINT

License Geologists To Help Engineers

By Christopher C. Mathewson, Ph.D., R.E.G., P.E.

Professional engineers get nervous when they hear about scientific professionals seeking a license of their own. Engineers worry that such legislation will lead to incidental engineering practice loopholes, allowing unqualified individuals to design systems that could threaten the public health and safety. And PEs worry that they might suddenly be barred from work which they have always had the legal right, and the qualifications, to perform. When it comes to the licensure of geologists, however, professional engineers should not be concerned.

Christopher C. Mathewson Ph.D., R.E.G., P.E.

Let me make an analogy. When we consider the relationship between engineers and the supporting sciences, it is easy to forget that a "surveyor" is in reality a geodetic scientist. Geodesy is a field of applied mathematics concerned with determining the shape of the earth. The surveyor is the practitioner of geodesy, and as such, many geodesists are not licensed and have no need to be. However, licensed surveyors and licensed engineers have been able to coexist, without practice protection and incidental practice disputes, for many years. How is this possible? Because geodesy is based on mathematics (science) and is not a design profession; thus a practice conflict cannot develop. In many states where both engineers and surveyors are licensed, engineers are authorized to carry out surveys as part of the engineering profession, but surveyors are not allowed to practice engineering—because surveyors are not qualified engineers.

The same relationship holds for engineers and earth scientists (geologists, geophysicists, and soil scientists). Earth scientists are not design professionals, thus they should not have a practice conflict with engineers. Yet engineers and the public should want to ensure that geological knowledge is presented by qualified individuals. Geologists who are educated and experienced in engineering and environmental geology and groundwater geology have become an increasingly important part of the civil engineer's team. As part of this team, geologists' scientific predictions directly affect the engineering design and, therefore, also affect the public health, safety, and welfare.

Unfortunately, the geologist's knowledge is not always appreciated. Consider the relationship between geology and engineering in many civil engineering degree programs. Geology is commonly a three-credit course that fails to maintain relevance to engineers. All too often the geology teacher is more interested in the rate of drift of the Hawaiian Islands than the geologic boundary conditions that control landslide processes. As a result, the case histories of failed dams, collapsed buildings, and buried towns are not part of the students' education in geology. With surveying, it's another story. Civil engineers generally do learn the cost of a 0.15-foot surveying error, driving home the importance of surveying to the engineer.

With increased costs, reduced funding, and redesigned curricula at many academic institutions, engineering degree programs have dropped surveying and geology from the civil engineering curricula. This makes it even more important to engineers that supporting scientists be licensed: licensed not just to protect the public but also to protect the engineers.

After all, licensure of geologists and other such supporting scientists is critical to engineers whose work interfaces with the earth system. Engineers should not have to depend on the geologic interpretations of an unlicensed, unqualified person. And that danger exists. In states that license geologists by examination, the average pass rate is less than 50%. So in states that do *not* license geologists, the odds are great that an engineer will be relying on an unqualified geologic consultant.

To promote licensure of geologists, a cross-section of the profession got together to write "The Suggested Geologist Practice Act of 1993" (SGPA). The SGPA recognizes that geology is a science and therefore exempts those scientists whose practice does not affect the public. More important to the engineer, the SGPA recognizes that some engineers (geological engineers) are fully qualified to carry out all geological investigations related to the engineering responsibility. The SGPA, therefore, exempts all engineers from the licensure requirements to practice geology and, by implication, leaves engineers responsible for any and all geological work that they may choose to do. The SGPA also prohibits any geologist from practicing engineering, unless such practice is incidental to the practice of geology or engineering geology and does not include any design of an engineered structure.

Here's that red flag "incidental" again! What does it mean? Because geology is not a design profession and engineering is, how can a geologist *design* anything? The incidental practice clause was included specifically to allow geologists to design their data collection systems. For example, a geologist concerned with contaminant migration in an aquifer needs to design the monitoring well to collect samples for aquifer tests. Note that the well is built to study the aquifer (science) and not to remediate the aquifer (engineering).

The professional licensure of earth scientists or geoscientists whose practice is relevant to or supports planning, design, operation, and maintenance of civil engineering works is critical to the professional engineer and to the protection of the public. Licensure of the scientists shifts the responsibility, accountability, and liability for scientific interpretations and conclusions from the engineer who uses the information to the scientist who generated it. As you can see, engineers have little to fear with licensure of earth scientists and much to gain.

Christopher C. Mathewson, Ph.D., R.E.G., P.E., a member of NSPE, is a past president of the Association of Engineering Geologists and of the American Geological Institute. Licensed both as an engineer and a geologist, he is Director of the Center for Engineering Geosciences and Professor of Engineering Geology at Texas A&M University.

The views expressed in this article are those of the author and do not necessarily represent those of ETI or NSPE.

5-12

Comparison of Proposed Kansas Geologist Licensure Act With Requirements in Other States

Registration Standards from Association of State Boards of Geology (May 1996)

STATE	REQUIREMENTS								AUTHORITY			EXEMPTIONS						
	BS/BA Geoscience	*BS/BA Engineering*	*Minimum Credit Hours (Sem)*	*Work Experience (yrs post-BS/BA)*	*Specialty Available/Required*	*Geophysics*	*Fundamentals Exam*	*Prin/Practice Exam*	*Reciprocity*	*Temporary Registration*	*Practice Agreement (PE's)*	*State/Municipal Employees*	*Subordinates*	*Engineers*	*Teaching/Research*	*Other Professionals*	*Exploration/Non-Public*	*ASBOG Member State*
REMARKS	Y = Required for or Exempt from registration BLANK = NOT required or unspecified for registration																	
Kansas	Y		30	4			Y	Y	Y		Y		Y	Y	Y	Y	Y	
State Licensure Requirements																		
Alabama	Y	Y	30	5	Y		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Alaska (AIPG)	Y	Y	36	5		Y			Y									
Arizona				4			Y	Y	Y		Y		Y	Y	Y	Y	Y	Y
Arkansas	Y	Y	30	5	Y		Y	Y	Y	Y		Y	Y	Y	Y	Y	Y	Y
California			30	5	Y	Y	Y	Y	Y	Y			Y	Y	Y	Y	Y	Y
Delaware	Y		30	5						Y	Y		Y	Y	Y	Y	Y	
Florida	Y		30	5			Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	
Georgia	Y	Y	30	3	Y		Y	Y	Y	Y			Y	Y	Y	Y	Y	Y
Idaho			30	5			Y	Y	Y	Y			Y	Y	Y	Y	Y	
Illinois	Y	Y	30	4	Y		Y	Y	Y				Y	Y	Y	Y	Y	
Indiana (Cert)	Y	Y	30	5								Y	Y	Y	Y	Y	Y	Y
Kentucky	Y	Y	30	5			Y	Y	Y			Y	Y	Y	Y	Y	Y	Y
Maine	Y		30	5			Y	Y	Y	Y		Y	Y	Y	Y	Y	Y	
Minnesota	Y		30	4	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	
Missouri	Y	Y	30	3	Y		Y	Y	Y	Y			Y	Y	Y	Y	Y	Y
North Carolina	Y	Y	30	3			Y	Y	Y	Y			Y	Y	Y	Y	Y	Y
Oregon	Y	Y	30	5	Y		Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y
Pennsylvania	Y		30	5			Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y
South Carolina	Y		30	3			Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y
Tennessee	Y		30	5									Y	Y	Y	Y	Y	
Virginia	Y		30	3			Y	Y	Y				Y	Y	Y	Y	Y	Y
Wisconsin	Y	Y	30	5			Y	Y	Y	Y			Y	Y	Y	Y	Y	Y
Wyoming (title)	Y		30	4			Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y
Professional Society Certification																		
AIPG	Y	Y	36	5					Y									
AAPG, DPA	Y	Y	30	8					Y									
SIPES	Y	Y		12		Y			Y									

Date: March 11, 1997

To: State of Kansas Legislature

From: Kevin J. Bailey

Subject: Registration of Professional Geologists
House Bill 2490

As a lifetime resident of Kansas and a practicing geologist since 1986, I favor, as do most of my associates, the professional registration of geologists in the state of Kansas for total accountability in the area of earth science. These associates, in both the private and consulting industries, agree that geologic interpretation and applications of geologic principles are integral parts of many actions involving public health, safety, and welfare. Geologists provide investigations and expertise in areas including: groundwater, stability analysis, construction of dams, foundation analysis, waste disposal, environmental remediation, energy fuels, mineral and aggregate mining. All of these disciplines require the use of geological sciences, utilizing a comprehensive knowledge of the earth. Standards are necessary to set basic educational and experience prerequisites which are required for an individual to provide these services. I currently hold professional registrations in the state of Missouri, Kentucky and Tennessee. I have also recently applied with the state of Wisconsin. The increasing number of states adopting registration for professional geologists demonstrates a national recognition of the need to establish these basic requirements. I strongly believe that a total accountability by a Professional Geologist will only strengthen the commonwealth for the state of Kansas.

House GO and E
Attachment 6
3-11-97

F. DOYLE FAIR
Consulting Petroleum Engineer
Wichita, Kansas

Comments On HB 2490 On March 11, 1997
Before The House Governmental Organization And Elections Committee

House GO and E
Attachment 7
3-11-97

Mr. Chairman and committee members, I am Doyle Fair. Thank you for the opportunity to offer some comments. The *Kansas Corporation Commission* and the *Kansas Department of Health and Environment* educated me about "turf" wars. My clients and I have been involved with these agencies since 1959. For two years one would be on top and the next couple of years, the other. Trying to get both agencies to approve a salt water disposal application was like walking a tightrope.

After the *Environmental Protection Agency* entered the picture, I had some problems with getting approval for a new disposal well. Eventually I called Washington and asked who wrote the rules and was told it was a New Jersey consulting firm that specialized in municipal water supplies. The drafter of the legislation had no experience in the oil and gas industry. The oil and gas industry was caught napping when the rules were being considered and it cost my client more than it should have to resolve the problem. This pushed me to the decision of participating in the legislative process of rule making rather than reacting to the final bill.

HB 2490 appears to have the exemption for petroleum geologists because they do not represent a threat to the public. Why then have an exception within an exemption that says all geological documents to public agencies must be sponsored by a licensed geologist? Exhibit A shows where this hi-lited exception is within the exemption. Exhibit B shows the long range goal of the geological community is the United States. This outlines the "turf" they want to occupy.

I want my current and future clients to be able to operate under the public agencies of the *Kansas Department of Health and Environment*, the *Kansas Geological Survey*, the *Kansas Department of Revenue* and the *Kansas Corporation Commission* without having to have a

licensed geologist sponsor a document. The *Kansas Corporation Commission* has not appeared in support of this bill. They apparently do not have any major problems with the way geological documents are being submitted to them and they regulate the oil & gas industry.

Oil and gas operators in Eastern Kansas are not staffed with geologists like operators in Western Kansas. Small Eastern Kansas operators often use a service company or individual to help them with paper work submitted to the *Kansas Corporation Commission*. These helping parties often have field experience but no degree. They have traveled the paper trail before and can help someone that is confused.

Proponents of this bill have testified that most of the petroleum engineers in the Kansas oil & gas industry are not licensed. Licensing is not required and therefore most petroleum engineers will neither make the time nor effort to prepare for an exam. I think the percentage of petroleum engineers licensed in Kansas compared to the total number in the Kansas oil & gas industry will decrease each year. Under this bill, unlicensed consulting petroleum engineers will not be able to submit reports and recommendations to the *Kansas Corporation Commission* because it is a public agency.

Proponents have said that the *Kansas Geological Society* membership exceeds 800 and 90% are practicing petroleum geologists. That leaves 10% or 80^{+} geologists that are not practicing petroleum geologists. I would guess that many of the 80^{+} geologists are employed by state agencies.

There is no need for a letter from a state employed geologist to be signed by a licensed geologist. The weight of the seal of the State of Kansas is sufficient authority. The public or any regulated industry such as the petroleum industry ignores correspondence from a state agency at great peril. The name of the person who signed the correspondence and what title they might have is unimportant. It is what they represent -- the full weight of government. That is what causes the recipient of the correspondence to get their act together.

This bill has three unique provisions for petroleum geologists. The first one in effect says the *State Board of Technical Professions* has to contemplate licensing 90% of the *Kansas Geological Society* but not regulate them. Why license them in the first place? The second provision is that if one has a degree in geology, been in the business long enough and has joined a geological sponsored licensing association, they are home free if they apply for licensing before July 1, 1998. The third provision is that if one happens to be a graduate physical or natural scientist, they can do whatever work they customarily do. People with a master degree or doctorate in geology can teach, sell oil deals or consult without any oversight by the *State Board of Technical Professions*. I could not find similar verbiage about graduate physical or natural scientists elsewhere in statues related to the *State Board of Technical Professions*.

Approving this bill as drafted implies that all geologists are motivated in the same manner. A petroleum geologist is often partially compensated by receiving an overriding royalty. This is somewhat like receiving a contingency fee. The more oil the petroleum geologist finds, the more money he or she receives. A geologist in the environmental area anticipates receiving a fixed payment and hopes the client will call for another job in the future. The petroleum geologist is

profit driven. The non-petroleum geologist is service driven because she or he is offering their expertise for a fixed amount of money per hour, day, week or job.

Those of us participating in this legislative process have heard the same arguments pitched to different committees since 1993. I have heard, on multiple occasions, about collapsing homes in the Kansas City area that were located on slopes that eventually became unstable. It was initially implied that licensing geologists would have prevented the incident. Out of curiosity I called California to see if geologists were registered in that state. For 26 years California's *State Board of Registration for Geologists and Geophysicists* has existed. Houses still slide down the slopes in California.

Proponents make the argument that Kansas should have licensing because other states do. I do not see newspapers across the state pushing for licensing geologists. There is no cry from the public at large that geologists should be licensed. Perhaps we should be like Oklahoma and have only severance tax rather than severance and ad valorem tax. Maybe having corporation commissioners run for office like they do in Oklahoma is better than having them appointed by the governor as they are in Kansas. Wyoming was one of the early states to license geologists. The wisdom of following Wyoming's lead apparently did not prevail when Kansas speed limits were set. Reciprocity is for the benefit of those being licensed, not the public at large.

Recipients of letters from a state agency saying that geological documents will now have to be signed by a **licensed** geologist will realize that the fox has entered and left the chicken house unnoticed.

If the *State Board of Technical Professions* has been doing a good job with their current professions, then give consideration to their recommendations as to licensing requirements in HB 2490. I was present last year when the *State Board of Technical Professions* and the geologists met at the request of Senator Ramirez to try and resolve their differences. The Board volunteered to have only a professional practice examination rather than the normal fundamentals and professional practice examinations. That condition was not acceptable to the geologists.

Exhibit C sets forth my suggested changes to the bill. Oil & gas exploration geologists and petroleum engineers work in the same area of the oil & gas industry. Page 4 of this exhibit notes that condition. If oil & gas exploration geologists are going to be exempt from regulation by the *State Board of Technical Professions*, I think the same should hold true for petroleum engineers and page 6 of Exhibit C reflects that opinion.

Thank you.

this act to be taken by an applicant for licensure to practice geology.

New Sec. 5. Minimum qualifications of applicants seeking licensure as geologists are the following:

(a) Graduation from a course of study in geology, or from a program which is of four or more years' duration and which includes at least 30 semester or 45 quarter hours of credit with a major in geology or a geology specialty, that is adequate in its preparation of students for the practice of geology;

(b) proof of at least four years of experience in geology of a character satisfactory to the board, as defined by rules and regulations of the board; and

(c) the satisfactory passage of such examinations in the fundamentals of geology and in geologic practice as utilized by the board.

New Sec. 6. The provisions of this act requiring licensure or the issuance of a certificate of authorization under K.S.A. 74-7036 and amendments thereto to engage in the practice of geology shall not be construed to prevent or to affect:

(a) The practice of geology by any person before July 1, 1998.

(b) The performance of geological work which is exclusively in the exploration for and development of energy resources and economic minerals and which does not have a substantial impact upon the public health, safety and welfare, as determined pursuant to rules and regulations adopted by the board, nor require the submission of reports or documents to public agencies.

(c) The acquisition of engineering data, geologic data for engineering purposes and the utilization of such data by licensed professional engineers.

(d) Performance of work customarily performed by graduate physical or natural scientists.

New Sec. 7. (a) Subject to the provisions of subsection (b), a person who applies for licensure as a geologist before July 1, 1998, shall be considered to be qualified for licensure, without further written examination, if the person has:

(1) Experience consisting of a minimum of four years of professional practice in geology or a specialty thereof, of a character acceptable to the board; and

(2) (A) graduated from an accredited institution of higher education with a bachelor of science or bachelor of arts or higher degree, with a major in geology; or

(B) graduated from an accredited institution of higher education in a four-year academic degree program other than geology, but with 30 semester hours or 45 quarter hours of credit in geology.

(b) A person who meets the qualifications of subsection (a), in the

A

7-7

A BILL TO BE ENTITLED

"THE KANSAS PROFESSIONAL GEOLOGISTS PRACTICE ACT"

AN ACT

relating to the registration of professional geologists and the practice of geology; defining terms; creating and establishing the powers of the Board of Registration for Professional Geologists; establishing the requirements for registration of geologists and in specialties thereof, providing for the issuance, renewal, suspension and revocation of registration certificates; providing for the regulation of the practice of geology; making provisions for practice without the necessity of registration; prohibiting certain acts and conduct; imposing sanctions and penalties for violations of the Act; and repealing all laws or parts of laws in conflict.

BE IT ENACTED BY THE LEGISLATURE OF THIS STATE:

Section 1. Title; Purpose; Scope

1.1 Title. This Chapter shall be known and may be cited as "The Registration of Geologists Act of 1993."

1.2 Purpose. In order to safeguard life, health and property of the citizens of this State and to promote the public welfare, the practice of geology in this State is declared to be subject to regulation in the public interest.

1.3 Requirement for Registration. Only those persons who are registered pursuant to this Chapter, or who are exempted from or otherwise permitted hereby, shall practice, offer or attempt to practice geology or any specialty thereof, or in any manner make use of the term "Registered Professional Geologist" or claim any specialty in geology, as a professional, business or commercial identification, title, name, representation or claim or otherwise hold themselves out to the public, as provided in Section 2.7, as being qualified to practice geology or any of its specialties.

1.4 Public documents and reports. Any geologic report or geologic portion of a report required by or supporting compliance with municipal, county, State, or federal laws, ordinances or regulations, which incorporates or is based on a geologic study or on geologic data, shall be prepared by or under the supervision of a registered geologist as evidenced by the geologist's signature and seal as provided in Section 6.8.

1.5 Public Contracts. This State, its political subdivisions, and all public boards, districts, commissions, or authorities shall contract for geological services only with persons registered under this chapter or with business entities employing geologists registered under this chapter, who shall be in responsible charge of the geological work.

HOUSE BILL No. 2490

By Committee on Federal and State Affairs

2-20

AN ACT concerning the practice of geology; providing for licensure and regulation as a technical profession; amending K.S.A. 74-7005 and 74-7006 and K.S.A. 1996 Supp. 74-7003 and and 74-7013 and repealing the existing sections.

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

Section 1. K.S.A. 1996 Supp. 74-7003 is hereby amended to read as follows: 74-7003. As used in this act:

(a) "Technical professions" includes the professions of engineering, land surveying, architecture ~~and~~, landscape architecture *and geology* as the practice of such professions are defined in this act.

(b) "Board" means the state board of technical professions.

(c) "License" means a license to practice the technical professions granted under this act.

(d) "Architect" means a person whose practice consists of:

(1) Rendering services or performing creative work which requires architectural education, training and experience, including services and work such as consultation, evaluation, planning, providing preliminary studies and designs, overall interior and exterior building design, the preparation of drawings, specifications and related documents, all in connection with the construction or erection of any private or public building, building project or integral part or parts of buildings or of any additions or alterations thereto, or other services and instruments of services related to architecture;

(2) representation in connection with contracts entered into between clients and others; and

(3) observing the construction, alteration and erection of buildings.

(e) "Practice of architecture" means the rendering of or offering to render certain services, as described in subsection (d), in connection with the design and construction or alterations and additions of a building or buildings; the design and construction of items relating to building code requirements, as they pertain to architecture, and other building related features affecting the public's health, safety and welfare; the preparation and certification of any architectural design features that are required on plats; and the teaching of architecture by a licensed architect in a college

7-9

or university offering an approved architecture curriculum of four years or more.

(f) "Landscape architect" means a person who is professionally qualified as provided in this act to engage in the practice of landscape architecture, who practices landscape architecture and who is licensed by the board.

(g) "Practice of landscape architecture" means the performing of professional services such as consultation, planning, designing or responsible supervision in connection with the development of land areas for preservation and enhancement; the designing of land forms and nonhabitable structures for aesthetic and functional purposes such as pools, walls and structures for outdoor living spaces for public and private use; the preparation and certification of any landscape architectural design features that are required on plats; and the teaching of landscape architecture by a licensed landscape architect in a college or university offering an approved landscape architecture curriculum of four years or more. It encompasses the determination of proper land use as it pertains to: Natural features; ground cover, use, nomenclature and arrangement of plant material adapted to soils and climate; naturalistic and aesthetic values; settings and approaches to structures and other improvements; soil conservation erosion control; drainage and grading; and the development of outdoor space in accordance with ideals of human use and enjoyment.

(h) "Professional engineer" means a person who is qualified to practice engineering by reason of special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, who is qualified as provided in this act to engage in the practice of engineering and who is licensed by the board.

(i) "Practice of engineering" means any service or creative work, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, the teaching of engineering by a licensed professional engineer in a college or university offering an approved engineering curriculum of four years or more, engineering surveys and studies, the observation of construction for the purpose of assuring compliance with drawings and specifications, representation in connection with contracts entered into between clients and others and the preparation and certification of any engineering design features that are required on plats; any of which embraces such service or work, either public or private, for any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or consumer products or equipment

of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property. As used in this subsection, "engineering surveys" includes all survey activities required to support the sound conception, planning, design, construction, maintenance and operation of engineered projects, but excludes the surveying of real property for the establishment of land boundaries, rights-of-way, easements and the dependent or independent surveys or resurveys of the public land survey system.

(j) "Land surveyor" means any person who is engaged in the practice of land surveying as provided in this act and who is licensed by the board.

(k) "Practice of land surveying" includes:

(1) The performance of any professional service, the adequate performance of which involves the application of special knowledge and experience in the principles of mathematics, the related physical and applied sciences, the relevant requirements of law and the methods of surveying measurements in measuring and locating of lines, angles, elevation of natural and man-made features in the air, on the surface of the earth, within underground workings and on the bed of bodies of water for the purpose of determining areas, volumes and monumentation of property boundaries;

(2) the preparation of plats of land and subdivisions thereof, including the topography, rights-of-way, easements and any other boundaries that affect rights to or interests in land, but excluding features requiring engineering or architectural design;

(3) the preparation of the original descriptions of real property for the conveyance of or recording thereof and the preparation of maps, plats and field note records that represent these surveys;

(4) the reestablishing of missing government section corners in accordance with government surveys; and

(5) the teaching of land surveying by a licensed land surveyor in a college or university offering an approved land surveying curriculum of four years or more.

(l) "Person" means a natural person, firm, corporation or partnership.

(m) "Plat" means a diagram drawn to scale showing all essential data pertaining to the boundaries and subdivisions of a tract of land, as determined by survey or protraction. A plat should show all data required for a complete and accurate description of the land which it delineates, including the bearings (or azimuths) and lengths of the boundaries of each subdivision.

(n) "Geologist" means a person who is qualified to engage in the practice of geology by reason of knowledge of geology, mathematics and the supporting physical and life sciences, acquired by education and practical experience, who is qualified as provided in this act to engage in the prac-

tice of geology and who is licensed by the board.

(o) "Practice of geology" means:

(1) The performing of professional services such as consultation, investigation, evaluation, planning or mapping, or inspection, or the responsible supervision thereof, in connection with the treatment of the earth and its origin and history, in general; the investigation of the earth's constituent rocks, minerals, solids, fluids including surface and underground waters, gases and other materials; and the study of the natural agents, forces and processes which cause changes in the earth;

Unlicensed petroleum engineers "practice geology" as described in (o) (1) on a routine basis.

(2) the teaching of geology in a college or university offering an approved geology curriculum of four years or more by a person who meets the qualifications for education and experience prescribed by section 5 and amendments thereto; or

(3) representation in connection with contracts entered into between clients and others and the preparation and certification of geological information in reports and on maps insofar as it involves safeguarding life, health or property.

Unlicensed petroleum engineers "practice geology" as described in (o) (3) on a routine basis.

Sec. 2. K.S.A. 74-7005 is hereby amended to read as follows: 74-7005. (a) Membership of the board shall be as follows:

(1) Four members shall have been engaged in the practice of engineering for at least eight years and shall be licensed engineers. At least one of such members shall be engaged in private practice as an engineer. At least one of such members shall also be licensed as a land surveyor, as well as a licensed engineer.

(2) Two members shall have been engaged in the practice of land surveying for at least eight years and shall be licensed land surveyors.

(3) Three members shall be licensed architects of recognized standing and shall have been engaged in the practice of the profession of architecture for at least eight years, which practice shall include responsible charge of architectural work as principal.

(4) One member shall be a licensed landscape architect and shall have been engaged in the practice of landscape architecture for at least eight years, which practice shall include responsible charge of landscape architectural work as principal.

(5) *One member shall be engaged in the practice of geology, shall have been engaged in the practice of geology for at least eight years and, on and after January 1, 1998, shall be a licensed geologist.*

(6) ~~Three~~ *Two* members shall be from the general public of this state.

(b) Each member of the board shall be a citizen of the United States and a resident of this state.

(c) The amendments to this section shall not be applicable to any member of the board who was appointed to the board and qualified for such appointment under this section prior to the effective date of this act.

7-12

Sec. 3. K.S.A. 74-7006 is hereby amended to read as follows: 74-7006. *(a)* Whenever a vacancy ~~shall occur~~ *occurs* in the membership of the board by reason of the expiration of a term of office, the governor shall appoint a successor of like qualifications. All appointments shall be for ~~a term~~ *terms* of four years, but no member shall be appointed for more than three successive four-year terms. ~~The term of each member first appointed after January 1, 1993, for the purpose of computing the length of the term of such member, shall commence on the first calendar day subsequent to the day of expiration of the preceding term, regardless of when the appointment is made, and shall end on June 30 of the fourth year of the member's term for those members whose terms commence on July 1, or on June 30 following the third full year of the member's term for those members whose terms commence on January 1. Thereafter, for the purpose of computing the length of term of a member of the board,~~

(b) The terms of members appointed to the board shall commence on the July 1 immediately following the day of expiration of the preceding term, regardless of when the appointment is made, and shall expire on June 30 of the fourth year of the member's term.

(c) Each *member* shall serve until a successor is appointed and qualified. Whenever a vacancy shall occur in the membership of the board for any reason other than the expiration of a member's term of office, the governor shall appoint a successor of like qualifications to fill the unexpired term.

(d) The governor may remove any member of the board for misconduct, incompetency, neglect of duty, or for any other sufficient cause.

Sec. 4. K.S.A. 1996 Supp. 74-7013 is hereby amended to read as follows: 74-7013. (a) The board may adopt all bylaws and rules and regulations, including rules of professional conduct, which are necessary for performance of its powers, duties and functions in the administration of this act.

(b) The board ~~may~~, through rules and regulations, *may* adopt, enforce, and audit mandatory continuing education as a condition for license renewal or reinstatement for each of the technical professions as determined by the board.

(c) *Subject to the provisions of subsection (d),* it ~~shall~~ be *is* the responsibility of the member or members of the board who hold a license to practice the profession for which an applicant seeks to be licensed, to provide and have graded any examination required by this act to be taken by such applicant.

(d) Before January 1, 1998, it is the responsibility of the member of the board described in subsection (a)(5) of K.S.A. 74-7005 and amendments thereto to provide and have graded any examination required by

4-13

this act to be taken by an applicant for licensure to practice geology.

New Sec. 5. Minimum qualifications of applicants seeking licensure as geologists are the following:

(a) Graduation from a course of study in geology, or from a program which is of four or more years' duration and which includes at least 30 semester or 45 quarter hours of credit with a major in geology or a geology specialty, that is adequate in its preparation of students for the practice of geology;

(b) proof of at least four years of experience in geology of a character satisfactory to the board, as defined by rules and regulations of the board; and

(c) the satisfactory passage of such examinations in the fundamentals of geology and in geologic practice as utilized by the board.

New Sec. 6. The provisions of this act requiring licensure or the issuance of a certificate of authorization under K.S.A. 74-7036 and amendments thereto to engage in the practice of geology shall not be construed to prevent or to affect:

(a) The practice of geology by any person before July 1, 1998.

(b) The performance of geological work which is exclusively in the exploration for and development of energy resources and economic minerals and which does not have a substantial impact upon the public health, safety and welfare, as determined pursuant to rules and regulations adopted by the board, nor require the submission of reports or documents to public agencies.

(c) The acquisition of engineering data, geologic data for engineering purposes and the utilization of such data by licensed professional engineers.

(d) Performance of work customarily performed by graduate physical or natural scientists.

New Sec. 7. (a) Subject to the provisions of subsection (b), a person who applies for licensure as a geologist before July 1, 1998, shall be considered to be qualified for licensure, without further written examination, if the person has:

(1) Experience consisting of a minimum of four years of professional practice in geology or a specialty thereof, of a character acceptable to the board; and

(2) (A) graduated from an accredited institution of higher education with a bachelor of science or bachelor of arts or higher degree, with a major in geology; or

(B) graduated from an accredited institution of higher education in a four-year academic degree program other than geology, but with 30 semester hours or 45 quarter hours of credit in geology.

(b) A person who meets the qualifications of subsection (a), in the

erals. ~~and which does not have a substantial impact upon the public health, safety and welfare, as determined pursuant to rules and regulations adopted by the board, nor require the submission of reports or documents to public agencies.~~

neers or petroleum engineers in the exploration for and development of energy resources.

~~(d) Performance of work customarily performed by graduate physical or natural scientists.~~

sidered to be qualified for licensure~~, without further written examination,~~

(b) A person who meets the qualifications of subsection (a)~~, In the~~

discretion of the board, may be required to take and pass an examination as required by this act if the person is not engaged in the practice of geology on July 1, 1997, and has not engaged in the practice of geology for at least four of the eight years immediately preceding July 1, 1997.

(c) Upon application, a person who is licensed, registered or certified as a geologist in another state having standards at least equal to those required for licensure as a geologist pursuant to this act may be issued a license as a geologist pursuant to this act.

(d) On and after July 1, 1997, and before July 1, 1998, upon application, a person who holds a valid certification from the American institute of professional geologists or the division of professional affairs of the American association of petroleum geologists may be issued a license as a geologist pursuant to this act.

Sec. 8. K.S.A. 74-7005 and 74-7006 and K.S.A. 1996 Supp. 74-7003 and 74-7013 are hereby repealed.

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

~~discretion of the board, may~~ **shall** be required to take and pass an examination **or examinat**
as required by this act. ~~if the person is not engaged in the practice of geology on July 1, 1997, and has not engaged in the practice of geology for at least four of the eight years immediately preceding July 1, 1997.~~

~~(d) On and after July 1, 1997, and before July 1, 1998, upon application, a person who holds a valid certification from the American institute of professional geologists or the division of professional affairs of the American association of petroleum geologists may be issued a license as a geologist pursuant to this act.~~

~~and 74-7013~~ are hereby repealed.

7-15

THE COMMITTEE ON GOVERNMENT ORGANIZATION AND ELECTIONS

HB 2490 - Concerning the Practice of Geology

WRITTEN TESTIMONY by

Stanley C. Grant, Ph.D., Topeka, KS

Certified Professional Geologist

Registered Geologist, State of Arkansas

March 11, 1997

Mr. Chairperson and members of the Committee:

I write in support of House Bill 2490. I do believe that House Bill 2490 is important to the citizens of the State of Kansas.

In the 42 years that I have been a geologist, I have had the opportunity to serve as Director of the Iowa Geological Survey, Secretary of the Kansas Department of Health and Environment, CEO of my own geological and environmental consulting firm, and professor of geology at several colleges and universities in several states including Iowa, and now at Kansas State University. During those times, I have observed hundreds of geologists at work. My present position, as an environmental research and training center administrator at KSU, has also given me substantial exposure to the work of consulting geologists.

I am pleased to say that most of my experience working with geologist colleagues has been very positive. However, I have been repeatedly called upon to evaluate, and frequently correct, the "professional work" of individuals who have identified themselves as geologists, but who are not geologists, either by education, experience, or by ethical practice. These individuals have done inaccurate, unethical, and even illegal work for citizens who hired them. Citizens, in good faith, contracted these individuals who called themselves geologists, and had every reason to expect quality work from them. People entrusted their environmental, ground water, or other geologic problems to individuals in whom they had every right to expect accurate, timely work. While many people do ask to see the credentials of professionals whom they hire, most citizens do not really know what constitutes a qualified professional unless they are able to see some document that certifies them or licenses them.

Unfortunately, there are some unscrupulous individuals posing as professionals of one kind or another, and who are able to take substantial sums of money from Kansans without providing a legitimate or accurate service. Often it may be days, weeks, or months before the client finds out that they were given inaccurate information, or that they were provided very poor work, because the individual that was hired was patently unqualified to do the very work they were hired to do.

The State of Kansas is not alone with this problem. Because the profession of geology provides some unique scientific specialties and qualifications for working with environmental resources, geologists are being called upon to provide consulting services more today than ever before. The profession of geology has become far more sophisticated over the past 25 years in the use of modern science and technology to solve, or help solve, all kinds of environmental problems. While many geologists are still employed in the petroleum and mining industries, in geological specialties in federal and state agencies, and as academicians, many new careers in geology have evolved that serve the needs of the public, government, and industry. Those geologists who serve in the public interest, and are involved in the health, safety, and well-being of our citizens, must be qualified to do the job correctly, thoroughly, and in compliance with standards of practice, and the law. Unqualified individuals can not do so, yet many try, and Kansans are placed in jeopardy when that happens.

A number of states have already dealt with this problem and have established licensing laws under which certain geologists practice their profession. Those programs appear to be working well. I believe we can establish legislation in Kansas that can be, at least in part, patterned from successful legislation in those states. The issue to me, as a professional geologist, is not the mechanics of the legislation as much as the ultimate protection the law will provide to Kansas citizens who need the services of qualified professional geologists.

I am pleased to provide this testimony and I appreciate your consideration of HB 2490.

Thank you.

Stanley C. Grant, Associate Director, Hazardous Substance Research Center, and
Adjunct Professor of Geology, Kansas State University

House GO and E
Attachments 8
3-11-97

KSU
KANSAS STATE UNIVERSITY

Department of Geology

108 Thompson Hall
Manhattan, Kansas 66506-3201
Phone: 913-532-6724
Fax: 913-532-5159

March 6, 1997

Representative Kent Glasscock
Chair, House Governmental Organization and Elections Committee
Room 183W
Statehouse
Topeka, KS 66012-1504.

Dear Mr. Chairperson and Members of the Committee:

We strongly support HB 2490, which will require the licensing of geologists. Only professional geologists who have the appropriate education and experience, as outlined in HB 2490, should be practicing geology in situations that affect the public's health, safety, welfare, or environmental protection.

Sincerely,

Charles G. (Jack) Oviatt
Professor and Department Head

Allen W. Archer
Associate Professor

Robert Cullers
Professor

Mary S. Hubbard
Assistant Professor

Stanley C. Grant
Adjunct Professor of Geology
Associate Director, HSRC

James R. Underwood, Jr.
Professor Emeritus

Ronald R. West
Professor

House GO and E
Attachment 9
3-11-97

KANSAS CONSULTING ENGINEERS

Statement to
House Committee on Governmental Organization
House Bill 2490
Tuesday, March 11, 1997

Mr. Chairman and members of the committee, my name is George Barbee, executive director of the Kansas Consulting Engineers, and I am submitting this written testimony on its behalf. The Kansas Consulting Engineers is an association of member firms performing design services for the construction of buildings, roads, bridges, highways, water plants, water systems, sewage plants, and other major infrastructure projects.

To design projects it is necessary to collect geologic data, so there was a considerable amount of interest and concern when House Bill 2490 and its predecessor bills were introduced. Concerns that this bill might require engineers to acquire yet another professional practice license to do what engineers have been doing for many decades.

Engineers were also concerned that non-engineer geologists might be allowed to practice engineering without having received the prerequisite education, experience, and license to legally practice engineering.

We knew that you were not fond of refereeing turf battles between various professions, so I am happy to report that the geologists, the Kansas Consulting Engineers, and the Kansas Society of Professional Engineers met throughout 1995 and 1996 to arrive at mutual agreement on an amended bill as provided to you in House Bill 2490 today. This compromise will: allow engineers to collect geologic data for design purposes; allow for licensure of geologists; and allow for one new geologist member to be added to the existing state board of technical professions.

The State Board of Technical Professions is presently a 13-person board that administers the licensing law for engineers, architects, landscape architects, and land surveyors. These design professionals are licensed under one law to protect the health, safety, and welfare of the public. This bill would maintain the board at 13 by adding one geologist and eliminating one public member.

House Bill 2490, in its present amended form, will not be opposed by the Kansas Consulting Engineers.

Thank you for the opportunity to express our views.

House GO and E
Attachment 10
3-11-97

GEORGE BARBEE, EXECUTIVE DIRECTOR • 700 SW JACKSON ST., STE 702 • TOPEKA, KS 66603-3758 • (913)357-1824 • FAX (913)357-6629

Kansas Society of Professional Engineers

A state society of the National Society of Professional Engineers

TESTIMONY FOR THE HOUSE GOVERNMENT

Tuesday, March 11, 1997
HB 2490 - House Governmental Organizational Election Committee

On behalf of the Kansas Society of Professional Engineers, a professional organization consisting of more than nine hundred (900) licensed professional engineers who reside in the State of Kansas, I am Bill Henry, the Executive Vice President of the Professional Organization. On behalf of the Kansas Society of Professional Engineers I wish to announce our non-opposition to HB 2490.

HB 2490, which establishes the licensure of the practice of geology under the Board of Technical Professions was the subject of discussion between geologists and engineers in 1995. A select committee of engineers and geologists met and agreed upon the contents of HB 2490 in the Summer of 1995.

After studying the provisions of the proposed HB 2490, the Kansas Society of Professional Engineers agreed not to oppose the bill as introduced.

A key provision on which our non-opposition is centered in sub-section C on page 6, which exempts from the practice of geology the acquisition of engineering data, and geological data as utilized for engineering purposes. This sub-section is important for engineers who utilize geological data for engineering purposes and exempts engineers from the practice of geology during the use of such data. As long as this section remains in the bill, the position of the Kansas Society of Professional Engineers will be to not oppose this legislation.

Respectfully submitted,
William Henry, Executive Vice President
Kansas Society of Professional Engineers

House GO and E
Attachment 11
3-11-97

2300 SW 29th, Suite 123, Topeka, Kansas 66611 (913) 267-2444 Fax (913) 267-2557

TESTIMONY
of
William R. Bryson

HOUSE BILL 2490
before
House Governmental Organization and Elections Committee

March 11, 1997

Mr. Chairman, members of the Committee, I am submitting this written testimony on House Bill 2490 for your consideration and to indicate my strong support for passage of a Geologic Practices Licensing Act. I am a practicing consulting geologist and have in the past represented the interests of the Kansas Geological Society and Library in Wichita, Kansas. This testimony was also presented to the House Environment Committee on February 11, 1997 during a hearing on HB2099.

House Bill 2490 is essentially the same as last year's Substitute House Bill 2471 which passed the House in 1996 but died in the Senate Governmental Organization Committee. I wish to thank those of you who supported Substitute House Bill 2471 last year after it was heard in this Committee. The reintroduction of the measure this session indicates the value and importance we place on the licensing of geologists as a technical profession. The licensing or registration of geologists is now required in about one-half of the states. Another half dozen states, like Kansas, have the issue before their legislature, one of which is Nebraska. Missouri, Illinois, and Alabama have passed laws for licensing or registering geologists during the past two years. The Committee will hear testimony from several conferees who will describe a multitude of reasons why the licensing of geologists in Kansas is important because their professional interpretations and decisions impact on public health and the quality of environmental and water resources. Kansas geologists now find themselves in the position of trying to catch up with the mainstream of other states in the proper recognition of the geologic discipline as a licensed practice. The recognition that geologic interpretations form the very basis for proper design of many engineering structures, for cost effective and efficient ground water monitoring systems in contamination site remediation projects and the selection of proper waste injection zones for deep industrial waste disposal wells has taken a long time to evolve. Such programs as Superfund, Underground Storage Tanks, and RCRA have intensified the importance of geologic application to feasibility studies, environmental assessments and state ground water protection plans. HB2490 represents the best collective effort at delineating an acceptable interface between engineering and geologic functions.

In the summer of 1995, geologists met with members of the Kansas Engineering Society (KES) and the Kansas Association of Consulting Engineers (KACE) to resolve differences in language. This effort was successful and I wish to thank Bill Henry and George Barbee for their assistance in arriving at acceptable language for last years bill and HB2490. HB2490 contains the language and provisions which were agreeable to both the engineering and geologic community. In 1996,

House GO and E
Attachment 12
3.11.97

Substitute HB2471 also contained the language which included geologists as a profession subject to the continuing education statutory mandate passed by the Legislature in 1995. HB2490 has the continuing education requirements included.

During the testimony in both the House and Senate Committees in 1996 on HB2471, the Board of Technical Professions appeared as a neutral party but raised several issues of concern. We, as professionals were surprised to find Board opposition to the content of the Geologic Licensing Act because the measure contained provisions consistent with the provisions of past licensing acts for engineers, architects, landscape architects and surveyors as well as geologist licensing acts for other states. During the 1996 session, the geologic community endeavored to resolve differences with the Board, but without success.

The Kansas Board of Technical Professions has some ideological attitudes toward longstanding legislative policies on the grandfathering of professionals, exemption of certain activities by professional geologists, and the purpose of tests and examinations which are unique and would be unacceptable to any professions seeking to be licensed for the first time. The Kansas Legislature established the Board to administer licensing acts for technical professions, consequently, the geologists believe their licensing program should be housed under this administrative umbrella rather than under a separate Board of Geologists as is done in some other states. The geologists do not believe their ability to achieve licensing should be held to a higher standard than other professional groups were held to **at the time their licensing act was passed.**

As a part of this testimony, I have included three attachments which address concerns expressed by the Board in 1996 and apparently still exist.

(1) Attachment I addresses the reason for the grandfathering provisions as expressed in Section 7 on page 6 of HB2490. The Board has expressed a strong desire that all geologists be tested before a license is issued. Attachment I explains why this is an ill conceived concept. It is not a condemnation of the Board's dedication to the protection of Kansas citizens but an attempt on our part to indicate grandfathering of geologist is a positive process and their fears are unfounded.

(2) Attachment II addresses the concern by some over the exemption from licensing of those engaged in the performance of geological work which is exclusively limited to the exploration for and development of energy resources and economic minerals and does not have a substantial impact on public health, safety and welfare of citizens. This is contained in Section 6 (b) of HB2490.

(3) Attachment III addresses facts about the ASBOG exam which is the test adopted by many states. Some Legislative concern was expressed after the Board gave testimony on the purchase of the exam as a part of the overall funding projections.

The Board ventured other concerns which require lesser discussion. One of these was the fragmentation of the Board due to the addition of a new profession. In 1978, the Kansas Legislature, in order to prevent a proliferation of separate technical profession boards dealing

with the licensing of engineering and other professions whose practices and actions have impact on public health and the environment mandated the Board of Technical Professions as an umbrella agency. In light of this fairly longstanding legislative policy, we believe the close relationship between engineering and geology in terms of everyday practice qualifies us for inclusion under the Board. We also believe that introduction of a bill for separate Board of Geologists, which many other states have, would have met with less acceptance by the Kansas Legislature. The Kansas Geological Survey has offered to administer the licensing act for geologists, if passed, during the first couple of years if the Board of Technical Professions would feel overburdened with the addition of a new profession. The Board was also concerned over the costs of program implementation for geologists licensing. As is true with the other professions licensed by the Board, we would expect that both application fees and annual fees to be commensurate with the costs of the program. The geologists are willing to pay a larger annual license renewal fee than the currently existing $25 which is the statutory limitation. This desire carries no suggestion that the current ceiling should be raised for other professions licensed by the Board, however it does believe that $25 per year is cheaper fare than geologists are paying for renewal licenses in other states.

I appreciate the opportunity to submit written testimony in support of House Bill 2490 and provide a perspective on some of the points of concern expressed by the Board and others in past years. Some of the conferees have been provided a copy of this testimony and will be prepared to address any questions which the members of the Committee have.

Attachment I

Reasons for the Grandfathering Provision

The purpose of the Board of Technical Professions is to safeguard the life, health, and safety of the public, and to maintain a high standard of integrity, skills, and practice in the technical professions. The Board asserts than any applicant should pass a national examination to be considered minimally competent to practice a technical profession. There are several valid reasons why this approach is flawed when applied to a group of technical professions who are being licensed for the first time. Some of these are as follows:

(1) All states mandating geologists licensing have contained a clause which grandfathers in those who have the proper formal educational background, the minimum years of experience to qualify for a license and exhibit professional integrity. To require professionals who have been practicing for many years to pass an examination prior to license issuance may eliminate a large number of high quality performance professionals from carrying out their contractual obligations for clients or at least, delay continuation of their work until such time as they pass the standard exam. The purpose of the examination is to test those budding professionals who have recently graduated with the appropriate number of hours on geology courses and have less than the four years of experience. The test is to gauge their understanding of fundamentals of the science, their academic training and their short tenure of learning on the job. If all grandfathers were to be tested, a large series of specialty oriented tests would have to be designed to test how they apply the science to the current job. It is up to the individual geologist to recognize when they lack qualifications to practice in a certain specialty field of geology where prior training is absent.

(2) In most states, legislatures have been careful to not legislate a professional out of business by general passage of a licensing act. These legislatures have recognized the quality of work done by long standing professionals even though their formal academic training is in the distant past. The Kansas Legislature recognized the problem of some long time professionals not keeping up with new developments in their field and passes requirements for continuing education for all professions under the Board. The geologists subscribe to the continuing education requirement and applaud the legislature for their action. Some attorneys believe that the testing of all grandfathers without qualification may be open to challenge on the basis that the exclusion of grandfathered Kansas geologists may create an unfair advantage to those geologists applying for a license under reciprocity with other states.

(3) Grandfathering is also a practical approach to the licensing problem. Without the payment or licensing fees of those already practicing the profession, there will be very little income to the program for the first year or until the grandfathers pass the exam. Most experts in regulatory administration believe getting everyone into the program should be the first goal. The Kansas grandfather clause for geologists is unique in that persons not practicing the profession for less than four out of the last eight years may be required to take an examination.

Attachment II

EXEMPTIONS GRANTED TO OTHER PROFESSIONS

ARCHITECTS (74-7031)

- 1-2 Family homes & Agricultural Buildings
- Addition of store fronts, interior alterations, fixtures, cabinets, etc.
- Insurance ratings/loss prevention work

LANDSCAPE ARCHITECTS (74-7032)

- Right to grow nursery stock and be called nurseryman, landscape nurseryman, gardner
- Right of nurserymen to prepare and execute planting plans
- Practice of site development plans by architects
- Practice of engineering

ENGINEERS (74-7033)

- Work performed for oneself on one's own premise
- 1-2 Family homes and Agricultural buildings
- practice for the design of products manufactured for resale
- Landscape Architecture for site development approaches

LAND SURVEY (74-7034)

- Surveys incidental to construction and design
- work performed for oneself on one's own premise, (except for land conveyance)
- Farm surveys (except for land conveyance)
- Practices of Landscape Architects in performance of their duties

Attachment III

Facts About ASBOG Exam

1. The cost of purchasing the exam was $18,000 in 1996. Originally the exam cost $25,000 but has since been subscribed by 18 states thus reducing the costs. Further reduction in costs of the exam are not anticipated during the next two years.

   If the state purchases the exam, the following payment options are open:

   (a) Pay for the exam up front in which case the cost would be $18,000 with no payment in succeeding years.

   (b) Enter into a contract with ASBOG (Association of State Board of Geologists) to purchase exam over a specified number of years $18,000/years = x dollars per year.

   (c) Enter into a contract with ASBOG whereby there is a $25 surcharge paid by either the applicant or the state when someone takes the exam. The exam cost is $300 ($150 per part). In this case, the charge per exam part would be $175 of which $25 goes toward paying off the exam purchase cost.

   (d) Under (c); the Board of Technical Professions would not have to come up with any out of budget expenditure unless there was a decision at some later date to pay the balance of the amount either in total or by installment. No interest is involved. ASBOG does the billing to the state based on the number of examinations.

2. The annual dues to the ASBOG is $3,000 and would have to come out of the fee income from the program. However, a state can belong as an associate state during the grandfather year for $500. The only lack of privilege is that the state does not have a vote until it is a full member ($3,000).

3. The cost of examination in terms of Board of Technical Profession staff workload is limited to collecting the fee for application plus examination, proctoring the exams, and notifying applicants of the results and sending out applications upon request.

   --All exams are sent to ASBOG for grading.

Analysis

The costs to the Board of Technical Professions during FY1997 could be as little as $500 for the ASBOG relationship or $3,000 if full membership is desired.

Under ASBOG contract, the only payments to ASBOG would be for an applicant not eligible for grandfathering and where a test is taken in which case $50 per exam surcharge or $25/exam part would go toward the $18,000.

The bottom line is that this is a very affordable arrangement and should not cause the Board of Technical Professions to dip into existing balances to any appreciable degree. The processing of this activity would not appear to be sufficiently burdensome to require long term extra staff. Such a small increase in total workload does not appear to warrant an additional clerical staff.

Testimony for the House Federal and State Affairs Committee concerning the Geologist Licensing Bill (H.B. 2490)

by

Lee C. Gerhard, State Geologist and Director
Kansas Geological Survey

March 11, 1997

Over the last 25 years environmental laws and regulations have dramatically changed the scope of the practice of geology, changing it from being mostly resource exploration and development with adjunct engineering geology, to a scientific profession that is intimately associated with environmental assessment and mitigation, and environmental protection. The public needs to be assured that standards of practice are consistent and assure competency in those issues involving public health and safety. Whereas in the past our own practitioners have resisted licensing, it is now clear that there is a public responsibility to accept license and to meet public standards of practice.

The Kansas Geological Survey supports registration and licensing of geologists who work in positions affecting public health and safety, because the public rightfully expects high standards of professionalism, training, experience, and ethical behavior of those who affect their well-being. These are the same arguments that underlie the licensing of engineers, architects, and other professions.

Twenty-three states have already adopted geologist registration for these reasons; many more are considering or advancing such legislation. Lacking a Kansas licensing statute, your state geologist is licensed in Wyoming and has professional certification through the American Institute of Professional Geologists and the American Association of Petroleum Geologists.

Kansas is already heavily involved with implementation of federal laws and regulations dealing with environmental issues, with additional state and local requirements for environmental control and mitigation. In addition, Kansas is concerned about the relationship of agricultural-water use and stream flow, chemical contamination of ground water, and a myriad of other environmental issues. Most of these issues involve both geologic investigations and public health and safety. We are all familiar with the newspaper accounts and photographs of homes cracking apart as they slid down slopes in Overland Park, and roads slipping into jumbled slabs of blacktop near Manhattan.

Geologic hazards, resource conflicts with urban development, and land values tied to environmental regulations are all areas of geologic practice. Landslides, radon concentration problems, leaking underground storage tanks, recharge of aquifers, transfer of contaminants in ground water systems, earthquake susceptibility, salt intrusion into surface water, collapse of underground mines, salt dissolution collapses, and similar issues are part of the geologist's repertoire, but also impinge directly on public health and safety.

In some states engineers have objected to the licensing of geologists in fear of economic competition; this should never be an issue, since geologists may not practice engineering without license, nor should engineers practice geology without license. Geological engineers may be eligible for dual licensing, but they are few in number.

Pete Dohms, of Condor Minerals Management, Inc. of Pensacola, Florida, in a memo of January 31, 1993, elegantly stated the historical perspective, and I quote his words: "The public practice of geology is evolving in much the same manner as engineering did during the first half of this century. The states and the members of the profession have come to recognize that the public interest is served if geologists are registered at the state level and required to adhere to a high standard of professional conduct. Examination of the current situation suggests that virtually all states will require registration of geologists within the next ten to twenty years. In examination of requirements for both engineers and geologists in three example states it was learned that the requirements are essentially identical." Those three states are Arizona, California, and Florida.

My point is simply that geologists play a very important role in environmental and water issues and that the public interest demands that standards be set by the state. Kansas has its opportunity to provide for public protection and safety now, rather than later.

The Kansas Geological Survey supports House Bill 2490, which provides for licensure and regulation of the practice of geology in the public sector. We would not object to the extension of the act to include those geologists who are employed by the State of Kansas. Thank you for the opportunity to comment on the proposed legislation.

Comments concerning House Bill 2490 March 11, 1997

WILLIAM GILLILAND
2524 SW Mission Ave.
Topeka, Kansas 66614
Phone 913-273-4383

Bachelor of Science and Masters of Science Degrees, in Geology, Kansas State University
Registered Professional Geologist, No. 523, State of Arkansas
Certified Professional Geologist, No. 3703, American Institute of Professional Geologists

Since 1966, I have worked the majority of my professional career in the State of Kansas, with twenty two years as a State worker in the Departments of Transportation and Agriculture. I have also worked in the oil & gas industry and operated my own consulting firm. I have taught geology courses in community colleges and universities, on a part-time basis, for fifteen years.

Based upon my background in government employment, industry and academia; I would like to express my support for House Bill No. 2490, for registration of geologists in the State of Kansas. If geologists have a significant impact upon the safety, welfare, or health of residents of the State of Kansas; those individuals should take responsibility for their own actions, and be so held accountable.

If geologists do not have an impact on safety, welfare, or health of residents of the State of Kansas; then they should not be regulated by the State. However, every building, bridge, and dam in Kansas is constructed upon geologic material. Every water well, contamination remediation well, mine, quarry, and underground storage facility; is constructed in geologic materials. Therefore; it appears reasonable to regulate geologists and the practice of geology, to ensure that the citizens of Kansas obtain the best information available for the many projects that interact with the Earth.

I became a Registered Professional Geologist in the State of Arkansas, because it was required for the geologic consulting work that I had proposed to do for an engineering firm. I have maintained registration in Arkansas, because it had been the nearest state to Kansas with registration of geologists, until Missouri. I have found, over the years, that some "professionals" do not consider the work done by geologists to be important, because "we" are not held as accountable for our work. The registration, in another state, has been used to show that I am responsible for my work and professional opinion. Why should I, as a geologist, have to seek that recognition outside the State of Kansas?

At this time twenty three states regulate geologists and / or geology. I consider it appropriate to do so in Kansas. Thank you for this opportunity to express my opinions on this subject.

House GO and E
Attachment 14
3-11-97