

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Robert Tyson at 8:37 a.m. on February 12, 2004 in Room 423-S of the Capitol.

Members present:

Senator Christine Downey
Senator David Corbin
Senator Dwayne Umbarger
Senator Janis Lee
Senator Mark Taddiken
Senator Phil Journey
Senator Robert Tyson
Senator Tim Huelskamp

Committee staff present:

Raney Gilliland, Legislative Research Department
Lisa Montgomery, Office of Revisor of Statutes
Linda Bradley, Committee Secretary

Conferees appearing before the committee:

Others attending:

See Attached List.

Chairman Tyson thanked those who arrived on this cold February morning and then opened the meeting.

Review of Minutes

Senator Huelskamp moved to approve the minutes of February 4 and 5. Senator Lee seconded the motion and the motion carried.

Senate Bill 363

SB 363 is concerning hunting.

Chris Tymeson, Legal Counsel, Kansas Department of Wildlife and Parks was asked by Chairman Tyson to give a short explanation of **SB 363**. Mr. Tymeson stated there were two main parts to the bill. The first part is it creates a crash course for non-residents. The second part is the bill removes minimal age restrictions. Persons less than 12 years of age may hunt only if under the direct supervision of an adult who is 18 or more years of age.

The Committee was asked by the Chairman if there were any discussion on the bill and there were none.

Chairman Tyson asked what were the wishes of the Committee was on **SB 363**. Senator Taddiken made a motion to pass the bill out favorably. Senator Umbarger seconded the motion. A roll call vote was taken, and the motion passed.

Senate Bill 364

SB 364 is concerning wildlife; authorizing issuance of certain permits; providing for reissuance of certain permits to certain military personnel; relating to wild turkeys.

Raney Gilliland, Staff, was asked by Chairman Tyson to give a short explanation of **SB 364**. Mr. Gilliland stated the bill creates seven commissioner permits, eliminates wild turkey and describes fees.

Discussion followed an explanation of the proposed amendment. Concerns over the permits given to commissioners, commissioners permits of big game wild turkey issued to deployed, elk permit real high dollar draw and be fair with issuing permits to organizations.

CONTINUATION SHEET

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE at 8:37 a.m. on February 12, 2004 in Room 423-S of the Capitol.

A motion by Senator Huelskamp was made to amend and strike Section 1b, the removal of commissioners permit section out of the bill. Senator Lee seconded the motion. A roll call vote was taken and the motion carried.

Back on the bill, Senator Huelkamp made a motion to pass the bill out favorably. Senator Corbin seconded the motion. A roll call vote was taken and the motion passed.

Senate Bill 396

SB 396 is concerning the nuclear energy development and control act; relating to fees.

Ronald F. Hammerschmidt, Ph. D., Director, Division of Environment presented two proposals for amendments to **SB 396**. The first proposal the "table version" contains a table with maximum set for the fees is on the blue copy. (Attachment 1)

The second proposal the "general language version" has general provisions based upon Nuclear Regulatory Commission fees is on the green copy. (Attachment 2) Both contain fees for x-ray devices and accelerators as previously discussed. Both versions will deposit civil penalties into the state general fund.

Discussion by the Committee on this bill included how to collect fees, civil penalties, general fund, fee version over % version.

Senator Corbin made a motion to adopt the balloon amendment, "the table version" on the blue copy as proposed. The motion was seconded by Senator Taddiken. A roll call was taken, and the motion passed.

Senate Bill 416

SB416 is concerning solid waste; relating to fees.

Raney Gilliland, Staff, gave a short explanation of **SB 416**. He stated the confusion of cities and counties to use fees for recyclable programs.

No Committee discussion on this bill.

Senator Journey made a motion to pass the bill out favorably. Senator Downey seconded the motion. A roll call vote was taken, and the motion carried.

Adjournment

The meeting adjourned at 9:10 a.m.

The next scheduled meeting will be Thursday, February 19, 2004.

SENATE NATURAL RESOURCES COMMITTEE

GUEST LIST

DATE: *Thursday, February 12, 2004*

NAME	REPRESENTING
<i>Ron Hammerschmitt</i>	<i>KDHE</i>
<i>Shari Albrecht</i>	<i>KDHE</i>
<i>Tom Conley</i>	<i>KDHE</i>
<i>Chris Tymeson</i>	<i>KDWP</i>
<i>Dale Lambly</i>	<i>KDA</i>
<i>Bill Bider</i>	<i>KDHE</i>
<i>Mike Kepoon</i>	<i>Sedwick County</i>
<i>Chris Wilson</i>	<i>KBC</i>



K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

MEMORANDUM

DATE: February 11, 2004

TO: Senator Robert Tyson, Chairman, Senate Natural Resources Committee

FROM: Ronald F. Hammerschmidt, Ph. D., Director, Division of Environment

SUBJECT: Proposed Amendments to SB 396

Attached are two proposals for amendments to SB 396 (Radiation Fees). The "table version" on the blue copy contains a table with maximum set for the fees. The "general language" version on green paper has general provisions based upon Nuclear Regulatory Commission fees. Both contain fees for x-ray devices and accelerators as previously discussed. Both versions will deposit civil penalties into the state general fund.

Please contact me if you have questions before tomorrow morning. Thanks for your assistance and consideration.

RFH:cah
attachments
C - Lisa Montgomery, Revisor of Statutes Office
Raney Gilliland, Legislative Research

Senate Natural Resources Committee
Date: 2-12-04
DIVISION OF ENVIRONMENT

CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE 400, TOPEKA, KS 66612-1367

Voice 785-296-1535

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Attachment 1

TABLE VERSION

1-2

Session of 2004

SENATE BILL No. 396

By Committee on Natural Resources

1-29

Delete reference to K.S.A. 2003 Supp. 48-1613.
Change "sections" to "section."

AN ACT concerning the nuclear energy development and control act; relating to fees; amending K.S.A. 48-1606 and ~~K.S.A. 2003 Supp. 48-1613~~ and repealing the existing ~~sections.~~

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

Section 1. K.S.A. 48-1606 is hereby amended to read as follows: 48-1606. (a) The secretary of health and environment shall be responsible for state radiation control.

(b) The secretary, for the protection of the public health and safety, shall develop programs for evaluation of hazards associated with use of sources of radiation.

(c) The secretary may:

(1) Advise, consult and cooperate with other agencies of the state, the federal government, other states and interstate agencies, political subdivisions and with groups concerned with control of sources of radiation;

(2) accept and administer grants or gifts, conditional or otherwise, in furtherance of its functions, from the federal government and from other sources, public or private;

(3) collect and disseminate information relating to control of sources of radiation;

(4) encourage, participate in, or conduct studies, investigations, training, research and demonstrations relating to control of sources of radiation;

(5) in accordance with the laws of the state, employ, compensate and prescribe the powers and duties of such individuals as may be necessary to carry out the responsibilities set forth herein;

(6) institute training programs for the purpose of qualifying personnel to carry out the provisions of this act, and make personnel available for participation in any program or programs of the federal government, other states or interstate agencies in furtherance of the purposes of this act; and

(7) fix, charge and collect fees for licenses and registrations, and renewals thereof, issued under the nuclear energy development and radiation control act to cover all or any part of the cost of administering such

act; and

1 (8) receive any moneys in the form of grants, gifts, licensing or reg-
2 istration fees, ~~civil penalties~~, or as paid under an agreement with the
3 secretary or as reimbursement for remedial action costs.

Delete "civil penalties" from line 2.

4 ~~(d)~~ The secretary shall adopt rules and regulations fixing the fees for
5 each radioactive hazardous waste disposal facility which shall be not more
6 than \$300,000 annually. The fees shall be deposited in the state treasury
7 and credited to the state general fund for the radiation protection services
8 provided under this act and shall periodically increase or decrease such
9 fees consistent with the need to cover all or any part of the cost of ad-
10 ministering such act.

Insert new subsection (d) as follows:

(d) Subject to the following limitations, the secretary may assess a
fee for the following categories of radiation protection services:

SEE ATTACHED TABLE

11 New Sec. 2: (a) There is hereby created in the state treasury the
12 radiation control operations fee fund to administer the provisions of
13 K.S.A. 48-1601 through 48-1624, and amendments thereto. Such fund
14 shall be administered by the secretary of health and environment in ac-
15 cordance with the provisions of this section.

16 (b) Revenue from the following sources shall be deposited in the state
17 treasury and credited to the radiation control operations fee fund:

18 (1) Fees collected for licenses and registrations, and renewals thereof,
19 issued under the nuclear energy development and radiation control act;

20 (2) reimbursement for administrative, inspection, radioactive mate-
21 rial disposal, investigation and remedial action expenses;

22 (3) excluding civil penalties, moneys paid pursuant to any agreement,
23 stipulation or settlement;

24 (4) grants, gifts, bequests or state ~~or federal~~ appropriations for the
25 purposes of K.S.A. 48-1601 through 48-1624, and amendments thereto;
26 and

Re-designate the last subsection (line 4) as (e).

27 (5) interest attributable to investment of moneys in the fund shall be
28 remitted by the secretary to the state treasurer in accordance with the
29 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
30 each such remittance the state treasurer shall deposit the entire amount
31 in the state treasury to the credit of such fund. The secretary of health
32 and environment is authorized to receive from the federal government
33 or any of its agencies or from any private or governmental source any
34 funds made available for the purposes of K.S.A. 48-1601 through 48-1624,
35 and amendments thereto.

Delete "or federal" from line 24.

36 (c) The secretary is authorized to use moneys from the radiation con-
37 trol operations fee fund to pay the cost of:

38 (1) All activities related to licensing and registration, including but
39 not limited to, development and issuance of licenses, registrations and
40 renewals thereof, compliance monitoring, inspections, long term moni-
41 toring and enforcement actions and decontamination, decommissioning,
42 reclamation or remedial actions;

43 (2) design and review of radioactive waste disposal facilities;

- 1 (3) review and witnessing of test and repair procedures;
- 2 (4) investigation of violations, complaints, pollution and events af-
- 3 fecting the environment or public health;
- 4 (5) design and review of remedial action plans;
- 5 (6) personnel training programs;
- 6 (7) contracting for services needed to supplement the department's
- 7 staff expertise in administering the provisions of K.S.A. 48-1601 through
- 8 48-1624, and amendments thereto;
- 9 (8) staff consultation needed to provide radiation protection services
- 10 provided under this act;
- 11 (9) mitigation of adverse environmental or public health impacts, in-
- 12 cluding impounding sources of radiation;
- 13 (10) emergency or long-term remedial activities;
- 14 (11) administrative, technical and legal costs incurred by the secretary
- 15 in administering the provisions of K.S.A. 48-1601 through 48-1624, and
- 16 amendments thereto; and
- 17 (12) costs of program administration, including the state's share of
- 18 any grant received from the federal government or from other sources,
- 19 public or private.

20 (d) On or before the 10th of each month, the director of accounts
 21 and reports shall transfer from the state general fund to the radiation
 22 control operations fee fund interest earnings based on:

- 23 (1) The average daily balance of moneys in the radiation control op-
- 24 erations fee fund for the preceding month; and
- 25 (2) the net earnings rate of the pooled money investment portfolio
- 26 for the preceding months.

27 (e) All expenditures from this fund shall be made in accordance with
 28 appropriation acts and upon warrants of the director of accounts and
 29 reports issued pursuant to vouchers approved by the secretary of health
 30 and environment for the purposes set forth in this section.

31 ~~Sec. 3. K.S.A. 2003 Supp. 48-1613 is hereby amended to read as~~
 32 ~~follows: 48-1613. (a) Any person who violates any of the provisions of this~~
 33 ~~act or rules and regulations issued pursuant to this act, or who violates~~
 34 ~~any order of the secretary issued pursuant to this act, shall be guilty of a~~
 35 ~~misdemeanor, and upon conviction thereof shall be punished by a fine of~~
 36 ~~not less than \$25 nor more than \$500 or by imprisonment not to exceed~~
 37 ~~six months or by both such fine and imprisonment, and in addition~~
 38 ~~thereto, may be enjoined from continuing such violation. Each day of~~
 39 ~~such violation shall constitute a separate violation.~~

40 ~~(b) Any person who violates any licensing or registration provision of~~
 41 ~~this act, any rule and regulation or order issued thereunder or any term~~
 42 ~~condition or limitation of any license or registration certificate issued~~
 43 ~~thereunder or who commits a violation for which a license or registra-~~
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Delete Sec. 3, page 3, lines 31 - 43.

1 ~~tion certificate may be revoked under rules and regulations issued pur-~~
 2 ~~suant to this act may be subject to a penalty, to be imposed by the sec-~~
 3 ~~retary, not to exceed \$10,000. If any violation is a continuing one, each~~
 4 ~~day of such violation shall constitute a separate violation for the purpose~~
 5 ~~of computing the applicable civil penalty. The secretary shall have the~~
 6 ~~power to compromise, mitigate or remit such penalties. Whenever the~~
 7 ~~secretary proposes to subject a person to the imposition of a civil penalty~~
 8 ~~under the provisions of this section the secretary shall follow the proce-~~
 9 ~~dures contained in subsection (b) of K.S.A. 48-1608, and amendments~~
 10 ~~thereto.~~

11 ~~Any action by the secretary pursuant to this section is subject to review~~
 12 ~~in accordance with the act for judicial review and civil enforcement of~~
 13 ~~agency actions.~~

14 ~~(c) On the request of the secretary, the attorney general is authorized~~
 15 ~~to institute a civil action to collect any penalty imposed pursuant to this~~
 16 ~~section. The attorney general shall have the exclusive power to compro-~~
 17 ~~mise, mitigate or remit such civil penalties as are referred for collection.~~

18 ~~(d) All moneys collected from civil penalties shall be remitted to the~~
 19 ~~state treasurer in accordance with the provisions of K.S.A. 75-4215, and~~
 20 ~~amendments thereto. Upon receipt of each such remittance, the state~~
 21 ~~treasurer shall deposit the entire amount in the state treasury to the credit~~
 22 ~~of the state general fund radiation control operations fee fund. Moneys~~
 23 ~~collected from civil penalties shall not be used for normal operating ex-~~
 24 ~~penses of the department except as appropriations are made from the~~
 25 ~~general fund in the normal budgetary process.~~

26 ~~Sec. 4. K.S.A. 48-1606 and K.S.A. 2003 Supp. 48-1613 are hereby~~
 27 ~~repealed.~~

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

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Delete Sec. 3, page 4, lines 1 - 25.

Re-designate "Sec. 4" as "Sec. 3" and delete "and K.S.A. 2003 Supp. 48-1613 are" from line 26 and insert "is".

Re-designate "Sec. 5" as "Sec. 4".

Fee Category	Fee Subcategory	Maximum Annual Fee ¹
1. Special Nuclear Material		
	A. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems.	\$950
	B. Any licenses not otherwise specified in this table for possession and use of special nuclear material, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical mass.	\$2,250
2. Source material:		
	B. Licenses that authorize only the possession, use and/or installation of source material for shielding.	\$365
	C. All other source material licenses not otherwise specified in this table.	\$5,700
3. Radioactive or byproduct material:		
	A. Licenses of broad scope for possession and use of radioactive or byproduct material issued for processing or manufacturing of items containing radioactive or byproduct material for commercial distribution.	\$10,900
	B. Other licenses for possession and use of radioactive or byproduct material issued for processing or manufacturing of items containing radioactive or byproduct material for commercial distribution.	\$3,300
	C. Licenses authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing radioactive or byproduct material. This category also includes the possession and use of source material for shielding when included on the same license.	\$5,450
	D. Licenses and approvals authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources or devices not involving processing of radioactive or byproduct material. This category also includes the possession and use of source material for shielding when included on the same license.	\$2,350

	E. Licenses for possession and use of radioactive or byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units).	\$1,800
	F. Licenses for possession and use of less than 10,000 curies of radioactive or byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes.	\$3,300
	G. Licenses for possession and use of 10,000 curies or more of radioactive or byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes.	\$12,050
	H. Licenses issued to distribute items containing radioactive or byproduct material that require device review to persons exempt from licensing, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from licensing.	\$3,000
	I. Licenses issued to distribute items containing radioactive or byproduct material or quantities of radioactive or byproduct material that do not require device review to persons exempt from licensing, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from licensing.	\$3,050
	J. Licenses issued to distribute items containing radioactive or byproduct material that require sealed source and/or device review to persons generally licensed, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed.	\$1,100

	K. Licenses issued to distribute items containing radioactive or byproduct material or quantities of radioactive or byproduct material that do not require sealed source and/or device review to persons generally, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed.	\$700
	L. Licenses of broad scope for possession and use of radioactive or byproduct material issued for research and development that do not authorize commercial distribution.	\$5,900
	M. Other licenses for possession and use of radioactive or byproduct material issued for research and development that do not authorize commercial distribution.	\$2,800
	N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3P; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4A, 4B, and 4C.	\$3,050
	O. Licenses for possession and use of radioactive or byproduct material for industrial radiography operations. This category also includes the possession and use of source material for shielding when authorized on the same license.	\$6,100
	P. All other specific radioactive or byproduct material licenses not otherwise specified in this table.	\$1,250
	Q. Registration of generally licensed devices or sources.	\$225
4. Waste disposal and processing:		
	A. Licenses authorizing the possession and use of waste radioactive, by-product, source, or special nuclear material for a commercial low-level radioactive waste disposal facility. Amendment fees will be as follows:	Full Cost
	1. Amendment to License concerning Safety and Environmental Questions	Full Cost
	2. Amendment to License concerning Administration questions (No safety or environment questions)	Full Cost

	B. Licenses specifically authorizing the receipt of waste radioactive or byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	\$5,150
	C. Licenses specifically authorizing the receipt of prepackaged waste radioactive or byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	\$3,700
5. Well logging:		
	A. Licenses for possession and use of radioactive or byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies.	\$2,350
	B. Licenses for possession and use of radioactive or byproduct material for field flooding tracer studies.	\$2,350
6. Nuclear laundries:		
	A. Licenses for commercial collection and laundry of items contaminated with radioactive or byproduct material, source material, or special nuclear material.	\$11,550
7. Medical licenses:		
	A. Licenses issued for human use of radioactive or byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.	\$5,500

	B. Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development, including human use of radioactive or byproduct material except licenses for radioactive or byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions who also hold nuclear medicine licenses under Categories 7B or 7C.	\$12,350
	C. Other licenses issued for human use of radioactive or byproduct material, source material, and/or special nuclear material except licenses for radioactive or byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions who also hold nuclear medicine licenses under Categories 7B or 7C.	\$2,300
8. Civil defense:		
	A. Licenses for possession and use of radioactive or byproduct material, source material, or special nuclear material for civil defense activities.	\$650
9. Device, product, or sealed source safety evaluation:		
	A. Safety evaluation review of devices or products containing radioactive or byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution. This fee shall apply to each device or product.	\$3,500

	B. Safety evaluation review of devices or products containing radioactive or byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices. This fee shall apply to each device or product.	\$3,500
	C. Safety evaluation of sealed sources containing radioactive or byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution. This fee shall apply to each device or product.	\$1,100
	D. Registrations issued for the safety evaluation of sealed sources containing radioactive or byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant. This fee shall apply to each device or product.	\$365
10. Special Projects		
	A. Hourly rate for radiation control program activities for which there is not an established fee category or for radiation protection services provided to non-licensees and non-registrants.	\$79
11. Reciprocity		
	A. Licensees who conduct activities under a reciprocal agreement.	\$750
	B. Registrants who conduct activities under a reciprocal agreement.	\$200
12. X-ray Machines		
	A. Base registration fee per facility.	\$200
	B. Registration fee for each X-ray tube at a facility. This fee is in addition to the base registration fee.	\$50
15. Accelerators		
	A. Particle Accelerators	\$300
16. New License and Registration Applications		
	A. New license and registration applications	Equal to annual fee of applicable category

1. For licenses or registrations that authorize more than one activity, an annual fee shall be assessed for each of the applicable categories.

GENERAL LANGUAGE VERSION

1 Session of 2004

2 SENATE BILL No. 396

3 By Committee on Natural Resources

4
5
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7 1-29

8
9 AN ACT concerning the nuclear energy development and control act;
10 relating to fees; amending K.S.A. 48-1606 and ~~K.S.A. 2003 Supp. 48-~~
11 ~~1613 and repealing the existing sections.~~

Delete reference to K.S.A. 2003 Supp. 48-1613.
Change "sections" to "section."

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

14 Section 1. K.S.A. 48-1606 is hereby amended to read as follows: 48-
15 1606. (a) The secretary of health and environment shall be responsible
16 for state radiation control.

17 (b) The secretary, for the protection of the public health and safety,
18 shall develop programs for evaluation of hazards associated with use of
19 sources of radiation.

20 (c) The secretary may:

21 (1) Advise, consult and cooperate with other agencies of the state,
22 the federal government, other states and interstate agencies, political sub-
23 divisions and with groups concerned with control of sources of radiation;

24 (2) accept and administer grants or gifts, conditional or otherwise, in
25 furtherance of its functions, from the federal government and from other
26 sources, public or private;

27 (3) collect and disseminate information relating to control of sources
28 of radiation;

29 (4) encourage, participate in, or conduct studies, investigations, train-
30 ing, research and demonstrations relating to control of sources of
31 radiation;

32 (5) in accordance with the laws of the state, employ, compensate and
33 prescribe the powers and duties of such individuals as may be necessary
34 to carry out the responsibilities set forth herein;

35 (6) institute training programs for the purpose of qualifying personnel
36 to carry out the provisions of this act, and make personnel available for
37 participation in any program or programs of the federal government,
38 other states or interstate agencies in furtherance of the purposes of this
39 act; and

40 (7) fix, charge and collect fees for licenses and registrations, and re-
41 newals thereof, issued under the nuclear energy development and radi-
42 ion control act to cover all or any part of the cost of administering such
43 act; and

*Senate Natural Resources Committee
Date: 2-12-04 Amendment 2*

1 (8) receive any moneys in the form of grants, gifts, licensing or reg-
2 istration fees, ~~civil penalties~~, or as paid under an agreement with the
3 secretary or as reimbursement for remedial action costs.

Delete "civil penalties" from line 2.

4 (d) The secretary shall adopt rules and regulations fixing the fees for
5 each radioactive hazardous waste disposal facility which shall be not more
6 than \$300,000 annually. The fees shall be deposited in the state treasury
7 and credited to the state general fund for the radiation protection services
8 provided under this act and shall periodically increase or decrease such
9 fees consistent with the need to cover all or any part of the cost of ad-
10 ministering such act.

Insert new subsection (d) as follows:

(1) For ionizing radiation licenses and registrations and renewals thereof issued under the nuclear energy development and radiation control act, the secretary may assess an annual fee not to exceed 50% of the United States nuclear regulatory commission fee established for comparable fee categories in 10 C.F.R. 171.16(d) as in effect on August 18, 2003.

11 New Sec. 2: (a) There is hereby created in the state treasury the
12 radiation control operations fee fund to administer the provisions of
13 K.S.A. 48-1601 through 48-1624, and amendments thereto. Such fund
14 shall be administered by the secretary of health and environment in ac-
15 cordance with the provisions of this section.

(2) For ionizing radiation license and registration applications not subject to the annual fee categories identified in 10 C.F.R. 171.16(d) as in effect on August 18, 2003, the secretary may assess an application fee not to exceed 50% of the United States nuclear regulatory commission fee established for comparable categories in 10 C.F.R. 170.31 as in effect on August 18, 2003.

16 (b) Revenue from the following sources shall be deposited in the state
17 treasury and credited to the radiation control operations fee fund:

(3) For radiation machine registrations and renewals thereof, the secretary may assess a base facility fee not to exceed \$200 plus an X-ray tube fee not to exceed \$50 per tube.

18 (1) Fees collected for licenses and registrations, and renewals thereof,
19 issued under the nuclear energy development and radiation control act;

(4) For particle accelerator registrations and renewals thereof, the secretary may assess a fee not to exceed \$300 per particle accelerator.

20 (2) reimbursement for administrative, inspection, radioactive mate-
21 rial disposal, investigation and remedial action expenses;

(5) The secretary may assess a professional hourly rate fee for agency staff time. The fee shall be calculated by dividing the fiscal year budget for the radiation control program by the number of full-time equivalent employees allocated to the program and further dividing the quotient by the number of hours in the fiscal year. The hourly rate shall be assessed only for radiation control program activities not otherwise subject to the fees described in this subsection.

22 (3) excluding civil penalties, moneys paid pursuant to any agreement,
23 stipulation or settlement;

24 (4) grants, gifts, bequests or state ~~or federal~~ appropriations for the
25 purposes of K.S.A. 48-1601 through 48-1624, and amendments thereto;
26 and

Re-designate the last subsection (line 4) as (e).

Delete "or federal" from line 24.

27 (5) interest attributable to investment of moneys in the fund shall be
28 remitted by the secretary to the state treasurer in accordance with the
29 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
30 each such remittance the state treasurer shall deposit the entire amount
31 in the state treasury to the credit of such fund. The secretary of health
32 and environment is authorized to receive from the federal government
33 or any of its agencies or from any private or governmental source any
34 funds made available for the purposes of K.S.A. 48-1601 through 48-1624,
35 and amendments thereto.

36 (c) The secretary is authorized to use moneys from the radiation con-
37 trol operations fee fund to pay the cost of:

38 (1) All activities related to licensing and registration, including but
39 not limited to, development and issuance of licenses, registrations and
40 renewals thereof, compliance monitoring, inspections, long term moni-
41 toring and enforcement actions and decontamination, decommissioning,
42 reclamation or remedial actions;

(2) design and review of radioactive waste disposal facilities;

- 1 (3) review and witnessing of test and repair procedures;
- 2 (4) investigation of violations, complaints, pollution and events af-
- 3 fecting the environment or public health;
- 4 (5) design and review of remedial action plans;
- 5 (6) personnel training programs;
- 6 (7) contracting for services needed to supplement the department's
- 7 staff expertise in administering the provisions of K.S.A. 48-1601 through
- 8 48-1624, and amendments thereto;
- 9 (8) staff consultation needed to provide radiation protection services
- 10 provided under this act;
- 11 (9) mitigation of adverse environmental or public health impacts, in-
- 12 cluding impounding sources of radiation;
- 13 (10) emergency or long-term remedial activities;
- 14 (11) administrative, technical and legal costs incurred by the secretary
- 15 in administering the provisions of K.S.A. 48-1601 through 48-1624, and
- 16 amendments thereto; and
- 17 (12) costs of program administration, including the state's share of
- 18 any grant received from the federal government or from other sources,
- 19 public or private.

20 (d) On or before the 10th of each month, the director of accounts
 21 and reports shall transfer from the state general fund to the radiation
 22 control operations fee fund interest earnings based on:

- 23 (1) The average daily balance of moneys in the radiation control op-
- 24 erations fee fund for the preceding month; and
- 25 (2) the net earnings rate of the pooled money investment portfolio
- 26 for the preceding months.

27 (e) All expenditures from this fund shall be made in accordance with
 28 appropriation acts and upon warrants of the director of accounts and
 29 reports issued pursuant to vouchers approved by the secretary of health
 30 and environment for the purposes set forth in this section.

31 ~~Sec. 3. K.S.A. 2003 Supp. 48-1613 is hereby amended to read as~~
 32 ~~follows: 48-1613. (a) Any person who violates any of the provisions of this~~
 33 ~~act or rules and regulations issued pursuant to this act, or who violates~~
 34 ~~any order of the secretary issued pursuant to this act, shall be guilty of a~~
 35 ~~misdemeanor, and upon conviction thereof shall be punished by a fine of~~
 36 ~~not less than \$25 nor more than \$500 or by imprisonment not to exceed~~
 37 ~~six months or by both such fine and imprisonment, and in addition~~
 38 ~~thereto, may be enjoined from continuing such violation. Each day of~~
 39 ~~such violation shall constitute a separate violation.~~

40 ~~(b) Any person who violates any licensing or registration provision of~~
 41 ~~this act, any rule and regulation or order issued thereunder or any term~~
 42 ~~condition or limitation of any license or registration certificate issued~~
 43 ~~thereunder or who commits any violation for which a license or registra-~~

Delete Sec. 3, page 3, lines 31 - 43.

1 ~~tion certificate may be revoked under rules and regulations issued pur-~~
 2 ~~suant to this act may be subject to a penalty, to be imposed by the sec-~~
 3 ~~retary, not to exceed \$10,000. If any violation is a continuing one, each~~
 4 ~~day of such violation shall constitute a separate violation for the purpose~~
 5 ~~of computing the applicable civil penalty. The secretary shall have the~~
 6 ~~power to compromise, mitigate or remit such penalties. Whenever the~~
 7 ~~secretary proposes to subject a person to the imposition of a civil penalty~~
 8 ~~under the provisions of this section the secretary shall follow the proce-~~
 9 ~~dures contained in subsection (b) of K.S.A. 48-1608, and amendments~~
 10 ~~thereto.~~

11 ~~Any action by the secretary pursuant to this section is subject to review~~
 12 ~~in accordance with the act for judicial review and civil enforcement of~~
 13 ~~agency actions.~~

14 ~~(c) On the request of the secretary, the attorney general is authorized~~
 15 ~~to institute a civil action to collect any penalty imposed pursuant to this~~
 16 ~~section. The attorney general shall have the exclusive power to compro-~~
 17 ~~mise, mitigate or remit such civil penalties as are referred for collection.~~

18 ~~(d) All moneys collected from civil penalties shall be remitted to the~~
 19 ~~state treasurer in accordance with the provisions of K.S.A. 75-4215, and~~
 20 ~~amendments thereto. Upon receipt of each such remittance, the state~~
 21 ~~treasurer shall deposit the entire amount in the state treasury to the credit~~
 22 ~~of the state general fund radiation control operations fee fund. Moneys~~
 23 ~~collected from civil penalties shall not be used for normal operating ex-~~
 24 ~~penses of the department except as appropriations are made from the~~
 25 ~~general fund in the normal budgetary process.~~

26 ~~Sec. 4. K.S.A. 48-1606 and K.S.A. 2003 Supp. 48-1613 are hereby~~
 27 ~~repealed.~~

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

Delete Sec. 3, page 4, lines 1 - 25.

Re-designate "Sec. 4" as "Sec. 3" and delete "and K.S.A. 2003 Supp. 48-1613 are" from line 26 and insert "is".

Re-designate "Sec. 5" as "Sec. 4".

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