

Approved: Carl Dean Holmes
Date 4/29/94

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:30 p.m. on March 17, 1994 in Room 526-S of the Capitol.

All members were present except: Representative Hendrix - Excused

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Torrence, Revisor of Statutes
Shirley Wilds, Committee Secretary

Conferees appearing before the committee: Janis Lee, KS State Senator
William Bider, KS Department of Health & Environment

Others attending: See attached list

Hearing on SB 669:

The Honorable Janis Lee. Senator Lee offered comments to the Committee reporting this legislation was a result of a discussion during an interim committee, wherein a gentleman from Southwest Kansas reported his fees for his private solid waste landfill construction and demolition had increased from \$50 to \$500. Senator Lee began to investigate the situation and discovered that because of legislation passed last year the Department is allowed to set those fees up to \$2,000. There had been no designation set through the legislation last year that it should be a graduated schedule.

Bill Bider. (See Attachment #1) Mr. Bider reported that KDHE supports the changes as proposed in the solid waste statutes by **SB 669**. He said the bill will cause very minor fiscal impact on state programs. He explained that if the permit renewal fee was dropped for all ten private landfills from the current fee of \$500 per year to \$100, the total fiscal impact would only be \$4,000 per year.

Action on SB 669:

Representative Powers made a motion to pass **SB 669** favorably. Representative Mills seconded. Motion carried.

Action on 169:

Representative McClure introduced a balloon amendment on **SB 169**. (See Attachment #2)

Representative McClure moved to adopt her balloon amendment. Representative Powers seconded.

Representative Grotewiel made a substitute motion to keep all of proposed amendment with the exception of (d) on Page 3. Representative Mills seconded. Motion carried.

Representative Hendrix made a conceptual motion to exclude on Page 1 in balloon, *crushing areas*. Representative Myers seconded. Motion carried.

Representative Alldritt made a motion to reinstate on Page 3 of balloon (d) change "1/2 acre" to 2 acres or less. Representative Weiland seconded.

Representative Freeborn made a substitute motion to change (d) of the balloon amendment to *operations of an operator whose affected lands is not within three miles of an urban area*. Representative Kjer seconded.

Representative Freeborn withdrew her motion.

Representative Freeborn made a substitute motion to change (d) of the balloon amendment to *operations of an operator whose affected lands are not more than 3 miles outside the boundaries*. Motion failed for lack of a second.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m. on March 17, 1994.

Representative Alldritt's motion passed to change (d) change "1/2 acre" to 2 acres.

Representative Hendrix made a motion to report **SB 169**, as amended, favorably.

Staff advised the Committee of technical amendments. (See Attachment #3)

Representative Grotewiel moved to adopt staff's technical amendments. Representative Walker seconded. Motion carried.

Representative Shore made a motion to exclude *state and subdivisions* in the state from the bill. Representative McKinney seconded.

Representative Gatlin made a motion to exempt political counties from fee requirements. Representative Myers seconded. Motion carried.

Representative Hendrix moved to pass **SB 169** favorably, as amended. Representative Mills seconded. Motion carried.

Representative Gatlin moved to reconsider action on **SB 169**. Representative McClure seconded. Motion carried.

Representative Gatlin introduced a balloon amendment. (See Attachment #4)

Representative Gatlin made a motion to adopt his balloon amendment. Representative Myers seconded. Motion carried.

Representative Gatlin introduced a second amendment. (See Attachment #5)

Representative Gatlin moved to adopt his second amendment. Representative Shore seconded. Motion failed.

Representative Grotewiel made a motion to pass **SB 169** favorably, as amended. Representative seconded. Motion carried.

Upon completion of its business, the meeting adjourned at 5:15 p.m.

The next meeting is scheduled for March 21 at 12:00 p.m., 1994.

State of Kansas



Department of Health and Environment

Testimony presented to

House Energy and Natural Resources Committee

by

The Kansas Department of Health and Environment

Senate Bill 669

KDHE supports the changes proposed in the solid waste statutes by Senate Bill 669. This bill would require the secretary to establish differential solid waste permit fees for construction and demolition (C & D) landfills based upon the volume of waste disposed of at the landfills. Upon passage, the solid waste permit fee regulations (K.A.R. 28-29-84) will be amended to provide for variations in construction and demolition landfill permit renewal fees based upon the volume of waste disposed.

Currently, C & D landfills do not report their total waste disposal volumes to KDHE. The only waste quantity records which must be maintained are related to waste which is subject to the \$1.50 per ton tipping fee. Many exempt wastes are routinely disposed of at C & D landfills including clean rubble, trees and brush, wastes generated by units of local or state government, and even some wastes generated by special military projects. Rather than increase the recordkeeping burden on these facilities, KDHE anticipates revising the regulation so that only waste subject to the tipping fee will be considered when determining facility size for the purposes of the sliding fee schedule. The appropriate annual renewal fee would be based upon the tipping fee reports submitted with payments to KDHE in the preceding calendar year.

This bill will cause a very minor fiscal impact on state programs. Permit fees are only paid by private permit applicants, thus the permitted landfill universe is small. In total, there are about 10 private C & D landfills. Only 3 or 4 of this group are small landfills likely to be eligible for reduced annual permit renewal fees. Even if the permit renewal fee was dropped for all 10 private landfills from the current fee of \$500 per year to \$100, the total fiscal impact would only be \$4000 per year. This is insignificant compared to the total amount deposited annually into the Solid Waste Management Fund, which includes the \$1.50 per ton tipping fee. Overall, about \$4 million per year is received into this fund.

Testimony presented by:

William L. Bider
Director, Bureau of Waste Management
March 17, 1994

*Energy & Natural Resources
Attachment #1*

3/17/94

SENATE BILL No. 169

By Committee on Energy and Natural Resources

2-3

9 AN ACT enacting the surface-mining land conservation and reclama-
10 tion act.

11

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

13 Section 1. This act shall be known and may be cited as the
14 surface-mining land conservation and reclamation act.

15 Sec. 2. It is the policy of this state to provide for the reclamation
16 and conservation of land affected by surface mining and thereby to
17 preserve natural resources, protect and perpetuate the taxable value
18 of property, and protect and promote the health, safety and general
19 welfare of the citizens of this state.

20 Sec. 3. As used in this act:

21 (a) "Director" means the executive director of the commission or
22 a designee.

23 (b) "Affected land" means the area of land from which overburden
24 has been removed or upon which overburden has been deposited,
25 ~~but shall not include stockpile areas or roads.~~

26 (c) "Commission" means the state conservation commission.

27 (d) "Mine" means any underground or surface mine developed
28 and operated for the purpose of extracting ~~any materials except~~
29 ~~coal, rocks, minerals and industrial materials, other than coal, oil~~
30 ~~and gas, and borrow areas created for construction purposes.~~

31 (e) "Operator" means any person, firm, partnership, corporation,
32 government or other agency.

33 (f) "Overburden" means all of the earth and other materials which
34 lie above the natural deposits of material being mined or to be mined.

35 (g) "Peak" means a projecting point of overburden removed from
36 its natural position and deposited elsewhere in the process of surface
37 mining.

38 (h) "Pit" means a tract of land from which overburden has been
39 or is being removed for the purpose of surface mining.

40 (i) "Ridge" means a lengthened elevation of overburden removed
41 from its natural position and deposited elsewhere in the process of
42 surface mining.

43 (j) "Surface mining" means:

or both, including crushing areas but excluding
stockpile areas and

Energy: Natural Resources
Attachment #2
3/17/94

(1) The mining of material, except for coal, oil and gas, for sale or for processing or for consumption in the regular operation of a business by removing the overburden lying above natural deposits and mining directly from the natural deposits exposed, or by mining directly from deposits lying exposed in their natural state, *or the surface effects of underground mining*. Surface mining shall include dredge operations lying outside the high banks of streams and rivers.

(2) Removal of overburden and mining of limited amounts of any materials shall not be considered surface mining when done only for the purpose and to the extent necessary to determine the location, quantity or quality of the natural deposit, if the materials removed during exploratory excavation or mining are not sold, processed for sale or consumed in the regular operation of a business.

(k) "Topsoil" means the natural medium located at the land surface with favorable characteristics for growth of vegetation, *which is normally the A or B, or both, soil horizon layers of the four soil horizons*.

(l) "Active site" means a site where surface mining is being conducted.

(m) "Inactive site" means a site where surface mining is not being conducted but where overburden has been disturbed in the past for the purpose of conducting surface mining and an operator anticipates conducting further surface mining operations in the future.

(n) "Materials" means natural deposits of gypsum, clay, stone, sandstone, sand, shale, silt, gravel, volcanic ash or any other minerals of commercial value found on or in the earth with the exception of coal, oil and gas and those located within cut and fill portions of road rights-of-way.

(o) "Reclamation" means the reconditioning of the area of land affected by surface mining.

(p) "Stockpile" means the ~~mining by surface finished products~~ of the mining of gypsum, clay, shale, stone, sandstone, sand, silt, gravel, volcanic ash or other minerals and removal from its natural position and deposited elsewhere for future use in the normal operation as a business.

(q) "Underground mining" means the extraction of rocks, minerals and industrial materials, other than coal, oil and gas, from the earth by developing entries or shafts from the surface to the seam or deposit before recovering the product by underground extraction methods.

Sec. 4. Sections 2 through 22 shall not apply to:

(a) Affected land mined prior to the effective date of this act and shall apply only to those areas of land affected after the effective

to a usable condition for agricultural, recreational or other use

1 date of this act;

2 (b) in any way affect or control the stockpiling, method of stock-
3 piling or mining from stockpiles of gypsum, clay, shale, stone, sand-
4 stone, sand, silt, gravel, volcanic ash or other minerals which are
5 consumed in the regular operation of the business; ~~or~~

6 (e) river sand producers subject to dredging permits as is-
7 sued by the chief engineer of the division of water resources.

8 (c) operations which involve the removal of sand and gravel from
9 within streams and are subject to the provisions of K.S.A. 82a-301
10 through 305(a), and amendments thereto. ; or

11 Sec. 5. No person, firm, partnership or corporation shall engage
12 in surface mining or operation of an underground mine or mines,
13 as defined by this act without first obtaining a license from the
14 director.

15 (a) Licenses shall be issued upon application submitted on a form
16 provided by the director and shall be accompanied by a fee of \$50
17 \$300. Each applicant shall be required to furnish on the form in-
18 formation necessary to identify the applicant. Licenses shall expire
19 ~~on December 31 of each year~~ one year from the date of issuance
20 and shall be renewed by the director upon application submitted
21 within 30 days prior to the expiration date and accompanied by a
22 ~~fee of \$10 renewal fee. License renewal fees shall be established by~~
23 ~~the rules and regulations of the director in an amount not exceeding~~
24 ~~the cost of administering the provisions of this act, estimated by the~~
25 ~~commission.~~

26 (b) A license to mine is only valid when approved by the com-
27 mission and acknowledged by a certificate which has been signed
28 by the director and lists the operator and the assigned license num-
29 ber.

30 Sec. 6. ~~The director may, with approval of the commission, com-~~
31 ~~mence proceedings to suspend, revoke or refuse to renew a license~~
32 ~~of any licensee for repeated or willful violation of any of the provisions~~
33 ~~of this act. Proceedings for the suspension or revocation of a license~~
34 ~~pursuant to this section shall be conducted in accordance with the~~
35 ~~Kansas administrative procedure act by the director or a hearing~~
36 ~~officer appointed by the director.~~

37 Sec. 7. (a) At least ~~seven~~ 30 calendar days before commence-
38 ment of mining or removal of overburden at a surface mining site
39 not previously registered, an operator engaged in surface mining in
40 this state shall register the site with the director. Application for
41 registration shall be made upon a form provided by the director.
42 All site registrations shall expire ~~on December 31 of each year~~
43 one year from the date of issuance. Application for renewal of reg-

(d) operations of an operator whose affected lands
do not exceed an aggregate of 1/2 acre

*within certain distance
from water body*

*is not up to 3
mi if within area*

the renewal fee established by the director under
section 23

(a) The director, with the approval of the commission,
may deny issuance or renewal of a license for repeated
or willful violation of the provisions of this act or
for failure to comply with any provision of a
reclamation plan.

(b)

may suspend or revoke a license

or for failure to comply with any provision of a
reclamation plan

1 istration shall be on a form provided by the director. ~~Registration~~
 2 ~~and registration renewal fees shall be established by the commission~~
 3 ~~in an amount not exceeding the cost of administering the registration~~
 4 ~~provisions of this section act.~~ The application shall include:

5 (1) A description of the tract or tracts of land where the site is
 6 located and the estimated number of acres at the site to be affected
 7 by surface mining;

8 (2) ~~A reclamation plan detailing the post mining land use, how~~
 9 ~~the final reclamation will be achieved and illustrating the proposed~~
 10 ~~final topography;~~

11 (2) (3) the description shall include the section, township, range
 12 and county in which the land is located and shall otherwise describe
 13 the land with sufficient certainty to determine the location and to
 14 distinguish the land to be registered from other lands;

15 (3) (4) ~~A statement explaining the authority of the applicant's~~
 16 ~~legal right to operate a mine on the land; and~~

17 (4) (5) ~~proof of compliance with all applicable zoning codes or~~
 18 ~~rules and regulations and all applicable local, state and federal per-~~
 19 ~~mits, except those contingent upon the issuance of a registration~~
 20 ~~under the provisions of this act.~~

21 (b) ~~The registration application fees and registration renewal fees~~
 22 ~~shall be established by the rules and regulations of the director in~~
 23 ~~an amount not exceeding the cost of administering the registration~~
 24 ~~provisions of this act, as estimated by the commission.~~

25 (c) A mine site registered pursuant to this section or section 21
 26 shall have, at the primary entrance to the mine site, a clearly visible
 27 sign which sets forth the name, business address and phone number
 28 of the operator. Failure to post and maintain a sign as required by
 29 this subsection, within 30 days after notice from the director, in-
 30 validates the registration.

31 (d) A person who falsifies information required to be submitted
 32 under this section shall be guilty of a class A misdemeanor.

33 Sec. 8. The application for registration shall be accompanied by
 34 a bond or security as required under sections 20 or 21. After as-
 35 certaining that the applicant is licensed under section 5 and is not
 36 in violation of this act with respect to any site previously registered
 37 with the director, the director shall register the mine site and shall
 38 issue the applicant written authorization to operate a mine.

39 Sec. 9. (a) An operator may at any time apply for amendment
 40 or cancellation of registration of any site. The application for amend-
 41 ment or cancellation of registration shall be submitted by the operator
 42 on a form provided by the director and shall identify as required
 43 under section 7 the tract or tracts of land to be added to or removed

if the application is for original registration, a

if the application is for renewal and changes have been
 made in the reclamation plan last filed, an updated
 reclamation plan;

(4) if the application is for renewal and
 changes have been made in the reclamation plan last
 filed, a statement of that fact;

(5)

(6) a

(7)

application shall be accompanied by the application fee
 and the registration or renewal fee established by the
 director under section 23

1 from registration.

2 (b) If the application is for an increase in the area of a registered
3 site, the application shall be processed in the same manner as an
4 application for original registration.

5 (c) If the application is to cancel registration of any or all of the
6 unmined part of a site, the director, after ascertaining that no over-
7 burden has been disturbed or deposited on the land, shall order
8 release of the bond or the security posted on the land being removed
9 from registration and cancel or amend the operator's written au-
10 thorization to conduct surface mining on the site.

11 (d) ~~No land~~ *Land* where overburden has been disturbed or de-
12 posited *shall substantially meet the criteria established by the rec-*
13 *lamation plan submitted with the registration application before it*
14 *shall be removed from registration or released from bond or security*
15 *under this section.*

16 Sec. 10. (a) If control of an active site or the right to conduct
17 any future mining at an inactive site is acquired by an operator other
18 than the operator holding authorization to conduct surface mining
19 on the site, the new operator, within 15 days, shall apply for reg-
20 istration of the site in the new operator's name. The application shall
21 be made and processed as provided under sections 7 and 8. The
22 former operator's bond or security shall not be released until the
23 new operator's bond or security has been accepted by the director.

24 (b) The director may establish procedures for transferring the
25 responsibility for reclamation of a mine site to a state agency or
26 political subdivision which intends to use the site for other purposes.
27 The director, with agreement from the receiving agency or subdivi-
28 sion to complete adequate reclamation, may approve the transfer
29 of responsibility, release the bond or security, and terminate or
30 amend the operator's authorization to conduct surface mining on the
31 site.

32 Sec. 11. (a) An operator authorized under this act to operate a
33 mine, after completion of mining operations and within the time
34 specified in section 13, shall:

35 (1) Grade affected lands except for impoundments, *and* pit floors;
36 *the high banks of sand pits, and highwalls, to slopes having a*
37 *maximum of no steeper than* one foot vertical rise for each three
38 feet of horizontal distance. Where the original topography of the
39 affected land was steeper than one foot of vertical rise for each three
40 feet of horizontal distance, the affected lands may be graded to blend
41 with the surrounding terrain. *The grading of high banks of sand*
42 *pits and highwalls may be modified or exempted by the director.*

43 (2) Provide for the vegetation of the affected lands, except for

1 registration, and shall terminate or amend as necessary the operator's
2 authorization to conduct surface mining on the site.

3 (d) In the event the director fails to inspect the completed
4 reclamation work within the time specified in subsection (c),
5 the operator and surety shall notify the commission of sub-
6 stantial completion of reclamation upon the affected area. Upon
7 receipt of such notice the commission shall release the bond
8 without further prejudice.

9 (d) Periodic inspections may be conducted by the director or the
10 director's designee, to ensure that the operator is following the rec-
11 lamation plan.

12 Sec. 14. The time for completion of reclamation work may be
13 extended upon presentation by the operator of evidence satisfactory
14 to the director that reclamation of affected land cannot be completed
15 within the time specified by section 13 without unreasonably im-
16 peding removal of material products from other parts of an active
17 site or future removal of material products from an inactive site.

18 Sec. 15. (a) A bond filed with the director by an operator pur-
19 suant to this act shall be in a form prescribed by the director, payable
20 to the state of Kansas, and conditioned upon faithful performance
21 by the operator of all requirements of this act and all rules and
22 regulations adopted by the director pursuant to this act. The bond
23 shall be signed by the operator as principal and by a corporate surety
24 licensed to do business in Kansas as surety. In lieu of a bond, the
25 operator may deposit cash, certificates of deposit or government
26 securities with the director on the same conditions as prescribed by
27 this section for filing of bonds.

28 (b) The amount of the bond or other security required to be
29 filed with each application for registration of a surface mining site,
30 or to increase the area of affected land previously registered as
31 required under section 9 shall be a minimum of \$250 per acre and
32 shall not exceed a maximum of ~~\$500~~^{\$1,000} per acre. \$2,500

33 "(c) Any political subdivision of the state of Kansas which engages
34 or intends to engage in surface mining shall meet all requirements
35 of this act except the subdivision shall not be required to post bond
36 or security on registered land."

37 Sec. 16. Any operator who registers with the director two or
38 more surface mining sites may elect, at the time the second or any
39 subsequent site is registered, to post a single bond in lieu of separate
40 bonds on each site. The amount of a single bond on two or more
41 surface mining sites may be increased or decreased from time to
42 time in accordance with sections 8, 9 and 13, 13 and 15. When an
43 operator elects to post a single bond in lieu of separate bonds pre-

(d) The director may waive or reduce the
amount of the bond or security required under
this act to the extent that the director
determines that the operator has sufficient
bond or security on file with the city or
county where the site or affected land is
located.

1 impoundments, pit floors, and highwalls, as approved by the director
2 before the release of the bond as provided in section 16.

3 (b) Notwithstanding subsection (a), overburden piles where dis-
4 position has not occurred *or will not occur* for a period of 12 months
5 shall be stabilized.

6 (c) Topsoil that is a part of overburden shall not be buried *or*
7 *destroyed* in the process of mining.

8 (d) The director, with concurrence of the ~~advisory~~ commission,
9 may grant a variance from the requirements of subsections (a) and
10 (b).

11 (e) A bond or security posted under this act to assure reclamation
12 of affected lands shall not be released until all reclamation work
13 required by this section has been performed in accordance with the
14 provisions of this act, except when a replacement bond or security
15 is posted by a new operator or responsibility is transferred under
16 section 10.

17 Sec. 12. (a) An operator shall file with the director a periodic
18 report for each site under registration. The report shall make ref-
19 erence to the most recent registration of the mine site and shall
20 show:

21 (1) The location and extent of all surface land area on the mine
22 site affected by mining during the period covered by the report.

23 (2) The extent to which removal of mineral products from all or
24 any part of the affected land has been completed.

25 (b) A report shall also be filed within 90 days after completion
26 of all surface mining operations at the site regardless of the date of
27 the last preceding report. Forms for the filing of periodic reports
28 required by this section shall be provided by the director.

29 Sec. 13. (a) An operator of a mine shall reclaim affected lands
30 within a period not to exceed three years, after the filing of the
31 report required under subsection (b) of section 12 indicating the
32 mining of any part of a site has been completed.

33 (b) For certain postmining land uses, such as a sanitary land fill,
34 the director, with the approval of the commission, may allow an
35 extended reclamation period.

36 (c) An operator, upon completion of any reclamation work re-
37 quired by section 11, shall apply to the director in writing for ap-
38 proval of the work. The director, within ~~90 days~~ *a reasonable time*
39 *as determined by the commission*, shall inspect the completed rec-
40 lamation work. Upon determination by the director that the operator
41 has satisfactorily completed all required reclamation work on the
42 land included in the application, the commission shall release the
43 bond or security on the reclaimed land, shall remove the land from

1 viously posted on individual sites, the separate bonds shall not be
2 released until the new bond has been accepted by the director.

3 Sec. 17. No bond filed with the director by an operator pursuant
4 to this act may be canceled by the surety without at least 90 days'
5 notice to the director. If the license to do business in Kansas of any
6 surety of a bond filed with the director is suspended or revoked,
7 the operator, within 90 days after receiving notice thereof from the
8 director, shall substitute for the surety a corporate surety licensed
9 to do business in Kansas. Upon failure of the operator to make
10 substitution of surety as herein provided, the director shall have the
11 right to suspend the operator's authorization to conduct surface min-
12 ing on the site or sites covered by the bond until substitution has
13 been made. The Kansas commissioner of insurance shall notify the
14 director whenever the license of any surety to do business in Kansas
15 is suspended or revoked.

16 Sec. 18. The director or the director's designee, when accom-
17 panied by the operator or operator's designee during regular business
18 hours, may inspect any lands on which any operator is authorized
19 to operate a mine for the purpose of determining whether the op-
20 erator is or has been complying with the provisions of this act. The
21 director shall give written notice to any operator who violates any
22 of the provisions of this act or any rules and regulations adopted by
23 the director pursuant to this act. If corrective measures approved
24 by the director are not commenced within 90 days, the violation
25 shall be referred to the commission. The operator shall be notified
26 in writing of the referral.

27 Sec. 19. Upon receipt of the referral, the commission shall
28 schedule a hearing on the violation by the operator within 30 days
29 after the date of receipt. The commission, upon written request,
30 shall afford the operator the right to appear before the commission
31 at the hearing. The operator shall have the right to counsel, and
32 may produce witnesses and present statements, documents and other
33 information with respect to the alleged violation. If the commission
34 determines that the operator is in violation of this act or of any rule
35 and regulation adopted by the director pursuant to this act, the
36 commission shall request the attorney general to institute bond for-
37 feiture proceedings.

38 Sec. 20. The attorney general, upon request of the commission,
39 shall institute proceedings for forfeiture of the bond posted by an
40 operator to guarantee reclamation of a site where the operator is in
41 violation of any of the provisions of this act or any rule and regulation
42 adopted by the director pursuant to this act. Forfeiture of the op-
43 erator's bond shall fully satisfy all obligations of the operator to

1 reclaim affected land covered by the bond. The director shall have
2 the power to reclaim as required by section 11, any surface mined
3 land with respect to which a bond has been forfeited, using the
4 proceeds of the forfeiture to pay for the necessary reclamation work.

5 Sec. 21. (a) The director, upon finding that the operator has
6 failed to comply with any condition of a license or site registration
7 with which the operator is required to comply pursuant to this act,
8 may impose upon the operator a civil penalty not exceeding \$1,000
9 for each day of noncompliance.

10 (b) All civil penalties assessed pursuant to this section shall be
11 due and payable within 35 days after written notice of the imposition
12 of a civil penalty has been served upon whom the penalty is being
13 imposed, unless a longer period of time is granted by the director
14 or unless the operator appeals the assessment as provided in this
15 section.

16 (c) No civil penalty shall be imposed under this section except
17 upon the written order of the director or the director's designee to
18 the operator upon whom the penalty is to be imposed, stating the
19 nature of the violation, the penalty imposed and the right of the
20 operator upon whom the penalty is imposed to appeal to the director
21 for a hearing on the matter. An operator upon whom a civil penalty
22 has been imposed may appeal, within 15 days after service of the
23 order imposing the civil penalty, to the director. If appealed, a
24 hearing shall be conducted in accordance with the provisions of the
25 Kansas administrative procedure act. The decision of the director
26 shall be final unless review is sought under subsection (d).

27 (d) Any action of the director pursuant to this section is subject
28 to review in accordance with the act for judicial review and civil
29 enforcement of agency actions.

30 Sec. 22. (a) *There is hereby created a fee fund within the state*
31 *treasury which shall be known and cited as the "land reclamation*
32 *fee fund".*

33 (b) *The director shall remit daily to the state treasurer all moneys*
34 *collected from fees imposed pursuant to this act. Upon receipt*
35 *thereof, the state treasurer shall deposit the entire amount in the*
36 *state treasury and credit it to the land reclamation fee fund herein*
37 *created.*

(a) 38 Sec. 22 23. The director, with the approval of the commission,
39 shall adopt such rules and regulations as necessary to administer and
40 enforce the provisions of this act.

41 ~~Sec. 23 24.~~ This act shall take effect and be in force from and
42 after its publication in the statute book.

any provision of this act, any provision of a
reclamation plan or

(b) The commission shall determine annually the amount necessary to carry out and enforce the provisions of this act for the next ensuing fiscal year and shall recommend to the director such license renewal, registration application, registration and registration renewal fees as the commission determines necessary for that purpose. The director shall adopt such fees by rule and regulation.

(c) Fees for license renewal, registration and registration renewal shall be based on a combination of an operator's acres of affected land and the tonnage of materials extracted by the operator during the preceding license year.

Sec. 24. The commission may request from the attorney general such legal services as necessary to enforce and administer this act. The commission may employ such other attorneys as necessary for such purpose, but all expenses of employing such attorneys shall be paid from the land reclamation fund.

Sec. 25.

SENATE BILL No. 169

By Committee on Energy and Natural Resources

2-3

9 AN ACT enacting the surface-mining land conservation and reclama-
10 tion act.

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

13 Section 1. This act shall be known and may be cited as the
14 surface-mining land conservation and reclamation act.

15 Sec. 2. It is the policy of this state to provide for the reclamation
16 and conservation of land affected by surface mining and thereby to
17 preserve natural resources, protect and perpetuate the taxable value
18 of property, and protect and promote the health, safety and general
19 welfare of the citizens of this state.

20 Sec. 3. As used in this act:

21 (a) "Director" means the executive director of the commission or
22 a designee.

23 (b) "Affected land" means the area of land from which overburden
24 has been removed or upon which overburden has been deposited,
25 but shall not include stockpile areas or roads.

26 (c) "Commission" means the state conservation commission.

27 (d) "Mine" means any underground or surface mine developed
28 and operated for the purpose of extracting ~~any materials except~~
29 ~~coal, rocks, minerals and industrial materials, other than coal, oil~~
30 ~~and gas, and borrow areas created for construction purposes.~~

31 (e) "Operator" means any person, ~~firm, partnership, corporation,~~
32 ~~government or other agency.~~

33 (f) "Overburden" means all of the earth and other materials which
34 lie above the natural deposits of material being mined or to be mined.

35 (g) "Peak" means a projecting point of overburden removed from
36 its natural position and deposited elsewhere in the process of surface
37 mining.

38 (h) "Pit" means a tract of land from which overburden has been
39 or is being removed for the purpose of surface mining.

40 (i) "Ridge" means a lengthened elevation of overburden removed
41 from its natural position and deposited elsewhere in the process of
42 surface mining.

43 (j) "Surface mining" means:

. Mine does not include

who engages in surface mining or operation of an
underground mine or mines

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#2

(1) The mining of material, except for coal, oil and gas, for sale or for processing or for consumption in the regular operation of a business by removing the overburden lying above natural deposits and mining directly from the natural deposits exposed, or by mining directly from deposits lying exposed in their natural state, *or the surface effects of underground mining*. Surface mining shall include dredge operations lying outside the high banks of streams and rivers.

(2) Removal of overburden and mining of limited amounts of any materials shall not be considered surface mining when done only for the purpose and to the extent necessary to determine the location, quantity or quality of the natural deposit, if the materials removed during exploratory excavation or mining are not sold, processed for sale or consumed in the regular operation of a business.

(k) "Topsoil" means the natural medium located at the land surface with favorable characteristics for growth of vegetation, *which is normally the A or B, or both, soil horizon layers of the four soil horizons*.

(l) "Active site" means a site where surface mining is being conducted.

(m) "Inactive site" means a site where surface mining is not being conducted but where overburden has been disturbed in the past for the purpose of conducting surface mining and an operator anticipates conducting further surface mining operations in the future.

(n) "Materials" means natural deposits of gypsum, clay, stone, sandstone, sand, shale, silt, gravel, volcanic ash or any other minerals of commercial value found on or in the earth with the exception of coal, oil and gas and those located within cut and fill portions of road rights-of-way.

(o) "Reclamation" means the reconditioning of the area of land affected by surface mining.

(p) "Stockpile" means the ~~mining by surface finished products~~ of the mining of gypsum, clay, shale, stone, sandstone, sand, silt, gravel, volcanic ash or other minerals and removal from its natural position and deposited elsewhere for future use in the normal operation as a business.

(q) "Underground mining" means the extraction of rocks, minerals and industrial materials, other than coal, oil and gas, from the earth by developing entries or shafts from the surface to the seam or deposit before recovering the product by underground extraction methods.

(r) "Person" means any individual, firm, partnership, corporation, government or other entity.

Sec. 4. Sections 2 through ~~22~~ shall not apply to:

(a) Affected land mined prior to the effective date of this act and shall apply only to those areas of land affected after the effective

1 date of this act;

2 (b) in any way affect or control the stockpiling, method of stock-
3 piling or mining from stockpiles of gypsum, clay, shale, stone, sand-
4 stone, sand, silt, gravel, volcanic ash or other minerals which are
5 consumed in the regular operation of the business; or

6 (e) ~~river sand producers subject to dredging permits as is-~~
7 ~~sued by the chief engineer of the division of water resources.~~

8 (c) *operations which involve the removal of sand and gravel from*
9 *within streams and are subject to the provisions of K.S.A. 82a-301*
10 *through 305(a), and amendments thereto.*

82a-305a

11 Sec. 5. ~~No person, firm, partnership or corporation shall engage~~
12 ~~in surface mining or operation of an underground mine or mines,~~
13 ~~as defined by this act without first obtaining a license from the~~
14 ~~director.~~

(a)

15 (a) Licenses shall be issued upon application submitted on a form
16 provided by the director and shall be accompanied by a fee of \$50
17 \$300. Each applicant shall be required to furnish on the form in-
18 formation necessary to identify the applicant. Licenses shall expire
19 ~~on December 31 of each year~~ *one year from the date of issuance*
20 and shall be renewed by the director upon application submitted
21 within 30 days prior to the expiration date and accompanied by a
22 fee of \$10 *renewal fee. License renewal fees shall be established by*
23 ~~the rules and regulations of the director in an amount not exceeding~~
24 ~~the cost of administering the provisions of this act, estimated by the~~
25 ~~commission.~~

(b)

licensure provisions of this act, as

26 (b) ~~A license to mine is only valid when approved by the com-~~
27 ~~mission and acknowledged by a certificate which has been signed~~
28 ~~by the director and lists the operator and the assigned license num-~~
29 ~~ber.~~

(c)

30 Sec. 6. The director may, with approval of the commission, com-
31 mence proceedings to suspend, revoke or refuse to renew a license
32 of any licensee for repeated or willful violation of any of the provisions
33 of this act. Proceedings for the suspension or revocation of a license
34 pursuant to this section shall be conducted in accordance with the
35 Kansas administrative procedure act by the director or a hearing
36 officer appointed by the director.

37 Sec. 7. (a) At least ~~seven~~ 30 calendar days before commence-
38 ment of mining or removal of overburden at a surface mining site
39 not previously registered, an operator engaged in surface mining in
40 this state shall register the site with the director. Application for
41 registration shall be made upon a form provided by the director.
42 All site registrations shall expire ~~on December 31 of each year~~
43 *one year from the date of issuance.* Application for renewal of reg-

1 istration shall be on a form provided by the director. Registration
 2 and registration renewal fees shall be established by the commission
 3 in an amount not exceeding the cost of administering the registration
 4 provisions of this ~~section~~ *act*. The application shall include:

5 (1) A description of the tract or tracts of land where the site is
 6 located and the estimated number of acres at the site to be affected
 7 by surface mining;

8 (2) ~~A reclamation plan detailing the post-mining land use, how~~ *a*
 9 *the final reclamation will be achieved and illustrating the proposed* postmining
 10 *final topography;*

11 (3) (3) the description shall include the section, township, range
 12 and county in which the land is located and shall otherwise describe
 13 the land with sufficient certainty to determine the location and to
 14 distinguish the land to be registered from other lands; *a*

15 (3) (4) ~~A~~ statement explaining the authority of the applicant's
 16 legal right to operate a mine on the land; and

17 (4) (5) proof of compliance with all applicable zoning codes or
 18 rules and regulations *and all applicable local, state and federal per-*
 19 *mits, except those contingent upon the issuance of a registration*
 20 *under the provisions of this act.*

21 (b) ~~The registration application fees and registration renewal fees~~
 22 ~~shall be established by the rules and regulations of the director in~~ *Registration*
 23 ~~an amount not exceeding the cost of administering the registration~~
 24 ~~provisions of this act, as estimated by the commission.~~

25 (c) A mine site registered pursuant to this section or section ~~21~~
 26 shall have, at the primary entrance to the mine site, a clearly visible
 27 sign which sets forth the name, business address and phone number *16*
 28 of the operator. Failure to post and maintain a sign as required by
 29 this subsection, within 30 days after notice from the director, in-
 30 validates the registration.

31 (d) A person who falsifies information required to be submitted
 32 under this section shall be guilty of a *class A misdemeanor*. *nonperson*

33 Sec. 8. The application for registration shall be accompanied by
 34 a bond or security ~~as required under sections 20 or 21~~. After as-
 35 certaining that the applicant is licensed under section 5 and is not *conforming to the requirements of sections 15 and*
 36 in violation of this act with respect to any site previously registered *16*
 37 with the director, the director shall register the mine site and shall
 38 issue the applicant written authorization to operate a mine.

39 Sec. 9. (a) An operator may at any time apply for amendment
 40 or cancellation of registration of any site. The application for amend-
 41 ment or cancellation of registration shall be submitted by the operator
 42 on a form provided by the director and shall identify as required
 under section 7 the tract or tracts of land to be added to or removed

1 from registration.

2 (b) If the application is for an increase in the area of a registered
3 site, the application shall be processed in the same manner as an
4 application for original registration.

5 (c) If the application is to cancel registration of any or all of the
6 unmined part of a site, the director, after ascertaining that no over-
7 burden has been disturbed or deposited on the land, shall order
8 release of the bond or the security posted on the land being removed
9 from registration and cancel or amend the operator's written au-
10 thorization to conduct surface mining on the site.

11 (d) ~~No land~~ *Land* where overburden has been disturbed or de-
12 posited *shall substantially meet the criteria established by the rec-*
13 *lamation plan submitted with the registration application before it* — the land
14 shall be removed from registration or released from bond or security
15 under this section.

16 Sec. 10. (a) If control of an active site or the right to conduct
17 any future mining at an inactive site is acquired by an operator other
18 than the operator holding authorization to conduct surface mining
19 on the site, the new operator, within 15 days, shall apply for reg-
20 istration of the site in the new operator's name. The application shall
21 be made and processed as provided under sections 7 and 8. The
22 former operator's bond or security shall not be released until the
23 new operator's bond or security has been accepted by the director.

24 (b) The director may establish procedures for transferring the
25 responsibility for reclamation of a mine site to a state agency or
26 political subdivision which intends to use the site for other purposes.
27 The director, with agreement from the receiving agency or subdivi-
28 sion to complete adequate reclamation, may approve the transfer
29 of responsibility, release the bond or security, and terminate or
30 amend the operator's authorization to conduct surface mining on the
31 site.

32 Sec. 11. (a) An operator authorized under this act to operate a
33 mine, after completion of mining operations and within the time
34 ~~specified in section 13, shall:~~ — determined by the commission under

35 (1) Grade affected lands except for impoundments, *and* pit floors,
36 ~~the high banks of sand pits, and highwalls,~~ to slopes having a
37 ~~maximum of no steeper than~~ one foot vertical rise for each three
38 feet of horizontal distance. Where the original topography of the
39 affected land was steeper than one foot of vertical rise for each three
40 feet of horizontal distance, the affected lands may be graded to blend
41 with the surrounding terrain. *The grading of high banks of sand*
2 *pits and highwalls may be modified or exempted by the director.*

3 (2) Provide for the vegetation of the affected lands, except for

1 impoundments, pit floors, and highwalls, as approved by the director
2 before the release of the bond as provided in section 16.

3 (b) Notwithstanding subsection (a), overburden piles where dis-
4 position has not occurred *or will not occur* for a period of 12 months
5 shall be stabilized.

6 (c) Topsoil that is a part of overburden shall not be buried *or*
7 *destroyed* in the process of mining.

8 (d) The director, with concurrence of the ~~advisory~~ commission,
9 may grant a variance from the requirements of subsections (a) and
10 (b).

11 (e) A bond or security posted under this act to assure reclamation
12 of affected lands shall not be released until all reclamation work
13 required by this section has been performed in accordance with the
14 provisions of this act, except when a replacement bond or security
15 is posted by a new operator or responsibility is transferred under
16 section 10.

17 Sec. 12. (a) An operator shall file with the director a periodic
18 report for each site under registration. The report shall make ref-
19 erence to the most recent registration of the mine site and shall
20 show:

21 (1) The location and extent of all surface land area on the mine
22 site affected by mining during the period covered by the report.

23 (2) The extent to which removal of mineral products from all or
24 any part of the affected land has been completed.

25 (b) A report shall also be filed within 90 days after completion
26 of all surface mining operations at the site regardless of the date of
27 the last preceding report. Forms for the filing of periodic reports
28 required by this section shall be provided by the director.

29 Sec. 13. (a) An operator ~~of a mine~~ shall reclaim affected lands
30 within a period not to exceed three years, after the filing of the
31 report required under subsection (b) of section 12 indicating the
32 mining of any part of a site has been completed.

33 (b) For certain postmining land uses, such as a sanitary land fill,
34 the director, with the approval of the commission, may allow an
35 extended reclamation period.

36 (c) An operator, upon completion of any reclamation work re-
37 quired by section 11, shall apply to the director in writing for ap-
38 proval of the work. The director, within 90 days *a reasonable time*
39 *as determined by the commission*, shall inspect the completed rec-
40 lamation work. Upon determination by the director that the operator
41 has satisfactorily completed all required reclamation work on the
42 land included in the application, the commission shall release the
43 bond or security on the reclaimed land, shall remove the land from

1 registration, and shall terminate or amend as necessary the operator's
2 authorization to conduct surface mining on the site.

3 (d) ~~In the event the director fails to inspect the completed~~
4 ~~reclamation work within the time specified in subsection (c),~~
5 ~~the operator and surety shall notify the commission of sub-~~
6 ~~stantial completion of reclamation upon the affected area. Upon~~
7 ~~receipt of such notice the commission shall release the bond~~
8 ~~without further prejudice.~~

9 (d) *Periodic inspections may be conducted by the director or the*
10 *director's designee, to ensure that the operator is following the rec-*
11 *lamation plan.*

12 Sec. 14. The time for completion of reclamation work may be
13 extended upon presentation by the operator of evidence satisfactory
14 to the director that reclamation of affected land cannot be completed
15 within the time ~~specified by~~ section 13 without unreasonably im-
16 peding removal of material products from other parts of an active
17 site or future removal of material products from an inactive site.

determined by the commission under

18 Sec. 15. (a) A bond filed with the director by an operator pur-
19 suant to this act shall be in a form prescribed by the director, payable
20 to the state of Kansas, and conditioned upon faithful performance
21 by the operator of all requirements of this act and all rules and
22 regulations adopted by the director pursuant to this act. The bond
23 shall be signed by the operator as principal and by a corporate surety
24 licensed to do business in Kansas as surety. In lieu of a bond, the
25 operator may deposit cash, certificates of deposit or government
26 securities with the director on the same conditions as prescribed by
27 this section for filing of bonds.

28 (b) The amount of the bond or other security required to be
29 filed with each application for registration of a surface mining site,
30 or to increase the area of affected land previously registered as
31 required under section 9 shall be a minimum of \$250 per acre and
32 shall not exceed a maximum of \$500\$1,000 per acre.

33 (c) *Any political subdivision of the state of Kansas which engages*
34 *or intends to engage in surface mining shall meet all requirements*
35 *of this act except the subdivision shall not be required to post bond*
36 *or security on registered land.*

37 Sec. 16. Any operator who registers with the director two or
38 more surface mining sites may elect, at the time the second or any
39 subsequent site is registered, to post a single bond in lieu of separate
40 bonds on each site. The amount of a single bond on two or more
41 surface mining sites may be increased or decreased from time to 9, 10
42 time in accordance with sections 8, 9 and 13, 13 and 15. When an
operator elects to post a single bond in lieu of separate bonds pre-

1 viously posted on individual sites, the separate bonds shall not be
2 released until the new bond has been accepted by the director.

3 Sec. 17. No bond filed with the director by an operator pursuant
4 to this act may be canceled by the surety without at least 90 days'
5 notice to the director. If the license to do business in Kansas of any
6 surety of a bond filed with the director is suspended or revoked,
7 the operator, within 90 days after receiving notice thereof from the
8 director, shall substitute for the surety a corporate surety licensed
9 to do business in Kansas. Upon failure of the operator to make
10 substitution of surety as herein provided, the director shall have the
11 right to suspend the operator's authorization to conduct surface min-
12 ing on the site or sites covered by the bond until substitution has
13 been made. The Kansas commissioner of insurance shall notify the
14 director whenever the license of any surety to do business in Kansas
15 is suspended or revoked.

16 Sec. 18. The director or the director's designee, when accom-
17 panied by the operator or operator's designee during regular business
18 hours, may inspect any lands on which any operator is authorized
19 to operate a mine for the purpose of determining whether the op-
20 erator is or has been complying with the provisions of this act. The
21 director shall give written notice to any operator who violates any
22 of the provisions of this act or any rules and regulations adopted by
23 the director pursuant to this act. If corrective measures approved
24 by the director are not commenced within 90 days, the violation
25 shall be referred to the commission. The operator shall be notified
26 in writing of the referral.

27 Sec. 19. Upon receipt of the referral, the commission shall
28 schedule a hearing on the violation by the operator within 30 days
29 after the date of receipt. The commission, upon written request,
30 shall afford the operator the right to appear before the commission
31 at the hearing. The operator shall have the right to counsel, and
32 may produce witnesses and present statements, documents and other
33 information with respect to the alleged violation. If the commission
34 determines that the operator is in violation of this act or of any rule
35 and regulation adopted by the director pursuant to this act, the
36 commission shall request the attorney general to institute bond for-
37 feiture proceedings.

38 Sec. 20. The attorney general, upon request of the commission,
39 shall institute proceedings for forfeiture of the bond posted by an
40 operator to guarantee reclamation of a site where the operator is in
41 violation of any of the provisions of this act or any rule and regulation
42 adopted by the director pursuant to this act. Forfeiture of the op-
43 erator's bond shall fully satisfy all obligations of the operator to

1 reclaim affected land covered by the bond. The director shall have
 2 the power to reclaim ^{as required by section 11,} any surface mined
 3 land with respect to which a bond has been forfeited, using the
 4 proceeds of the forfeiture to pay for the necessary reclamation work.

5 Sec. 21. (a) The director, upon finding that the operator has
 6 failed to comply with any condition of a license or site registration
 7 with which the operator is required to comply pursuant to this act,
 8 may impose upon the operator a civil penalty not exceeding \$1,000
 9 for each day of noncompliance.

10 (b) All civil penalties assessed pursuant to this section shall be
 11 due and payable within 35 days after written notice of the imposition
 12 of a civil penalty has been served upon whom the penalty is being
 13 imposed, unless a longer period of time is granted by the director
 14 or unless the operator appeals the assessment as provided in this
 15 section.

16 (c) No civil penalty shall be imposed under this section except
 17 upon the written order of the director or the director's designee to
 18 the operator upon whom the penalty is to be imposed, stating the
 19 nature of the violation, the penalty imposed and the right of the
 20 operator upon whom the penalty is imposed to appeal to the director
 21 for a hearing on the matter. An operator upon whom a civil penalty
 22 has been imposed may appeal, within 15 days after service of the
 23 order imposing the civil penalty, to the director. If appealed, a
 24 hearing shall be conducted in accordance with the provisions of the
 25 Kansas administrative procedure act. The decision of the director
 26 shall be final unless review is sought under subsection (d).

27 (d) Any action of the director pursuant to this section is subject
 28 to review in accordance with the act for judicial review and civil
 29 enforcement of agency actions.

30 Sec. 22. (a) ~~There is hereby created a fee fund within the state~~
 31 ~~treasury which shall be known and cited as the "land reclamation~~ the
 32 ~~fee fund"~~.

33 (b) ~~The director shall remit daily to the state treasurer all moneys~~
 34 ~~collected from fees imposed pursuant to this act. Upon receipt~~ and civil penalties
 35 ~~thereof, the state treasurer shall deposit the entire amount in the~~
 36 ~~state treasury and credit it to the land reclamation fee fund herein~~
 37 ~~created.~~ fund

38 Sec. 22 23. The director, with the approval of the commission,
 39 shall adopt such rules and regulations as necessary to administer and
 40 enforce the provisions of this act. Insert next page

41 Sec. 23 24. This act shall take effect and be in force from and
 42 after its publication in the statute book.

(c) All costs of administering the provisions of this act shall be paid from moneys credited or transferred to the land reclamation fund pursuant to this section. Expenditures from the fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director.

(d) On the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the land reclamation fund, the amount of money certified by the pooled money investment board in accordance with this subsection. Prior to the 10th of each month, the pooled money investment board shall certify to the director of accounts and reports the amount of money equal to the proportionate amount of all the interest credited to the state general fund for the preceding period of time specified under this subsection, pursuant to K.S.A. 75-4210a and amendments thereto, that is attributable to money in the land reclamation fund. Such amount of money shall be determined by the pooled money investment board based on:

(1) The average daily balance of moneys in the land reclamation fund during the period of time specified under this subsection as certified to the board by the director of accounts and reports; and

(2) the average interest rate on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board for that period of time.

On or before the fifth day of the month for the preceding month, the director of accounts and reports shall certify to the pooled money investment board the average daily balance of moneys in the land reclamation fund for the period of time specified under this subsection.

Proposed Amendment to S.B. 669

Before line 13, by inserting:

"Section 1. K.S.A. 1993 Supp. 65-3406 is hereby amended to read as follows: 65-3406. (a) The secretary is authorized and directed to:

(1) Adopt such rules and regulations, standards and procedures relative to solid waste management as necessary to protect the public health and environment, prevent public nuisances and enable the secretary to carry out the purposes and provisions of this act.

(2) Report to the legislature on further assistance needed to administer the solid waste management program.

(3) Administer the solid waste management program pursuant to provisions of this act.

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

(5) Develop a statewide solid waste management plan.

(6) Provide technical assistance, including the training of personnel to cities, counties and other political subdivisions.

(7) Initiate, conduct and support research, demonstration projects and investigations and coordinate all state agency research programs with applicable federal programs pertaining to solid waste management systems.

(8) Establish policies for effective solid waste management systems.

(9) Assist counties and groups of counties to establish and implement solid waste planning and management.

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

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(11) Conduct and contract for research and investigations in the overall area of solid waste storage, collection, transportation, processing, treatment, recovery and disposal including, but not limited to, new and novel procedures.

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

(13) Adopt rules and regulations establishing criteria for the location of processing facilities and disposal areas for solid wastes.

(14) Adopt rules and regulations establishing appropriate measures for monitoring solid waste disposal areas and processing facilities, both during operation and after closure.

(15) Adopt rules and regulations requiring that, for such period of time as the secretary shall specify, any assignment, sale, conveyance or transfer of all or any part of the property upon which a permitted disposal area for solid waste is or has been located shall be subject to such terms and conditions as to the use of such property as the secretary shall specify to protect human health and the environment.

(16) Adopt suitable measures, including rules and regulations if appropriate, to encourage recovery and recycling of solid waste for reuse whenever feasible.

(17) Adopt rules and regulations establishing standards for transporters of solid waste.

(18) Adopt rules and regulations establishing minimum standards for closing, termination, and long-term care of sites for the land disposal of solid waste. In this subsection, "site" refers to a site for the land disposal of solid waste which has a permit issued under K.S.A. 65-3407 and amendments thereto. The owner of a site shall be responsible for the long-term care of the site for 30 years after the closing of the site, except the secretary may extend the long-term care responsibility of a particular site or sites as the secretary deems necessary to protect the public health and safety or the environment. Any person acquiring rights of ownership, possession or operation in

a permitted site or facility for the land disposal of solid waste at any time after the site has begun to accept waste and prior to closure shall be subject to all requirements of the permit for the site or facility, including the requirements relating to long-term care of the site or facility.

(19) Enter into cooperative agreements with the secretary of commerce for the development and implementation of statewide market development for recyclable materials.

(20) Adopt rules and regulations for the management of non-hazardous special wastes.

(b) In adopting rules and regulations, the secretary shall allow the exemption contained in subsection (f)(1) of 40 CFR 258.1.

~~(c) The secretary shall report on or before January 20 of each year to the house and senate standing committees on energy and natural resources~~ (1) Any rules and regulations which are adopted by the secretary before January 1, 1995, and which establish standards for solid waste processing facilities or solid waste disposal areas that ~~exceed or are in addition to those required by federal law.~~ ~~The secretary's report shall include the reasons for the adoption of such standards.~~

~~(d) Standards adopted by rule and regulation of the secretary and applicable to requirements for solid waste processing facilities or solid waste disposal areas should be no more stringent than the standards required by federal law or applicable federal regulations in effect on the effective date of this act.~~ Any such standards adopted by the secretary which are more stringent than the standards required by federal law or applicable federal regulations on such date shall not become effective until 45 days after the beginning of the next ensuing session of the legislature, which date shall be specifically provided in such rule and regulation.

(2) The provisions of subsection (c)(1) shall not apply to rules and regulations establishing:

(A) Standards for location, design and operation of solid

waste processing facilities and disposal areas;

(B) standards for location, design and operation of solid waste transfer stations;

(C) standards for financial assurance requirements for owners and operators of solid waste processing facilities and disposal areas; and

(D) management standards for storage, transportation and disposal of special wastes.";

Also on page 1, in line 13, by striking "Section 1" and inserting "Sec. 2.";

On page 5, by renumbering sections 2 and 3 as sections 3 and 4; in line 1, by striking "65-3407 is" and inserting "65-3406 and 65-3407 are"; in line 3, by striking "statute book" and inserting "Kansas register";

In the title, in line 9, before "amending", by inserting "relating to certain rules and regulations;"; in line 10, after "Supp.", by inserting "65-3406 and"; also in line 10, by striking "section" and inserting "sections"

Proposed Amendment to S.B. 669

On page 5, by striking lines 1 through 3 and inserting:

"Sec. 2. On and after January 1, 1995, K.S.A. 77-416 is hereby amended to read as follows: 77-416. (a) Every state agency shall file with the secretary of state every rule and regulation adopted by ~~it~~ the agency and every amendment and revocation thereof. Every rule and regulation, other than a temporary rule and regulation, filed in the office of the secretary of state shall be filed in triplicate, and nine copies of every temporary rule and regulation shall be filed in the office of the secretary of state~~, and~~. Each section shall include a citation to the statutory section or sections being implemented or interpreted and a citation of the authority pursuant to which ~~it~~ the section, or any part thereof, was adopted. Every rule and regulation filed in the office of the secretary of state shall be accompanied by a copy of the economic impact statement required by subsection (b) and any document which is adopted by reference by the rule and regulation, except that for the purpose of avoiding unwarranted expense the board may authorize and direct the secretary of state to file any rule and regulation without the document which is adopted by such rule and regulation whenever the board determines that: (1) The document is a technical manual of limited public interest; (2) the cost of providing file copies of such document is excessive in view of its limited public interest; and (3) the document will be available for public inspection during normal business hours in the office of the agency adopting the rule and regulation. A copy of any document adopted by reference in a rule and regulation shall be available from the state agency which adopted the rule and regulation upon request by any person interested therein. The state agency, under the direction of the

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secretary of state, shall number each section with a distinguishing number and, in making a compilation of the rules and regulations, the sections shall be arranged in numerical order. A decimal system of numbering shall be prohibited.

(b) At the time of drafting a proposed rule and regulation or amendment to an existing rule and regulation, the state agency shall prepare a statement of the economic impact of such proposed rule and regulation or amendment upon all governmental agencies or units and all persons which will be subject thereto and upon the general public. The economic impact statement shall include: (1) A brief description of the proposed rules and regulations and what is intended to be accomplished by their adoption; (2) whether the proposed rule and regulation is mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program and whether the proposed rule and regulation exceeds the minimum standard established or required by federal law; (3) a description of the cost, the persons who will bear the costs and those who will be affected by the proposed rules and regulations, including the agency proposing the rules and regulations, other governmental agencies or units, private citizens and consumers of the products or services which are the subject of the rules and regulations or the enforcement thereof; and (4) a description of any less costly or less intrusive methods that were considered by the state agency for achieving the stated purpose of the rules and regulations and why such methods were rejected in favor of the proposed rules and regulations. The state agency shall reevaluate and, when necessary, update the statement at the time of giving notice of hearing on a proposed rule and regulation and at the time of filing a rule and regulation with the secretary of state. If a public hearing was held prior to the adoption of the rule and regulation, a state agency at the time of filing a rule and regulation with the secretary of state shall include as a part of the economic impact statement a statement specifying the time and place at which the hearing was held and the attendance at the

hearing. A copy of the current economic impact statement shall be available from the state agency upon request by any party interested therein.

(c) Upon request of the state rules and regulations board, the joint committee on administrative rules and regulations or the chairperson of either committee or board, the director of the budget shall review the economic impact statement prepared by any state agency and shall prepare a supplemental or revised statement. If possible, the supplemental or revised statement shall include a reliable estimate in dollars of the anticipated change in revenues and expenditures of the state. It also shall include a statement, if determinable or reasonably foreseeable, of the immediate and long-range economic impact of the rule and regulation upon persons subject thereto and the general public. If, after careful investigation, it is determined that no dollar estimate is possible, the statement shall set forth the reasons why no dollar estimate can be given. Every state agency is directed to cooperate with the division of the budget in the preparation of any statement pursuant to this subsection when, and to the extent, requested by the director of the budget.

New Sec. 3. (a) On or before January 20 of 1996 and of each year thereafter, each state agency shall report to the chairperson of the joint committee on administrative rules and regulations any permanent rule and regulation adopted by the state agency during the preceding calendar year which is mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program and which, as determined by the state agency, establishes a standard that exceeds the minimum standard established or required by federal law. The report shall include a comparison of the minimum standard established or required by federal law and the standard established by the rule and regulation and the reasons for adopting a standard that exceeds the standard established or required by federal law.

(b) A permanent rule and regulation which is determined by a

state agency to establish a standard that exceeds the minimum standard established or required by federal law, as provided by subsection (a), shall not take effect before March 15 following the report of the rule and regulation to the chairperson of the joint committee on rules and regulations pursuant to subsection (a).

(c) This section shall be part of and supplemental to the rules and regulations filing act.

Sec. 4. K.S.A. 1993 Supp. 65-3407 is hereby repealed.

Sec. 5. On and after January 1, 1995, K.S.A. 77-416 is hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.";

By amending the title accordingly