

**SENATE BILL No. 261**

By Committee on Ways and Means

2-17

1 AN ACT concerning the Kansas asbestos control program; establishing the  
2 asbestos remediation fund; specifying the expenditure of moneys  
3 therefrom; crediting certain fees and penalties therein; amending  
4 K.S.A. 65-5309 and 65-5314 and repealing the existing sections.

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

7 New Section 1. (a) There is hereby established in the state treasury  
8 the asbestos remediation fund.

9 (1) The secretary of health and environment shall remit to the state  
10 treasurer, in accordance with the provisions of K.S.A. 75-4215, and  
11 amendments thereto, all moneys collected or received by the secretary  
12 from the following sources:

13 (A) Permit and approval fees collected under K.S.A. 65-5309, and  
14 amendments thereto;

15 (B) any moneys recovered by the state under the provisions of this  
16 act, including administrative expenses, ~~civil penalties collected under~~  
17 ~~K.S.A. 65-3514, and amendments thereto,~~ and moneys paid under any  
18 agreement, stipulation or settlement; and

19 (C) interest attributable to investment of moneys in the fund.

20 (2) Upon receipt of each remittance pursuant to paragraph (1), the  
21 state treasurer shall deposit the entire amount in the state treasury to the  
22 credit of the asbestos remediation fund.

23 (b) Moneys deposited in the fund shall be expended only for the  
24 purpose of administering the Kansas asbestos control act, including  
25 funding of a technical and environmental compliance assistance program,  
26 and for no other governmental purposes.

27 (c) On or before the 10<sup>th</sup> of each month, the director of accounts and  
28 reports shall transfer from the state general fund to the asbestos  
29 remediation fund interest earnings based on the:

30 (1) Average daily balance of moneys in the asbestos remediation fund  
31 for the preceding month; and

32 (2) net earnings rate of the pooled money investment portfolio for the  
33 preceding month.

34 (d) All expenditures from the asbestos remediation fund shall be  
35 made in accordance with appropriation acts upon warrants of the director  
36 of accounts and reports issued pursuant to vouchers approved by the

1 secretary for the purposes set forth in this section.

2 Sec. 2. K.S.A. 65-5309 is hereby amended to read as follows: 65-  
3 5309. (a) The secretary shall establish by rules and regulations a  
4 reasonable schedule of fees for licensure and for project evaluations under  
5 this act. The fee schedule shall be established on the basis of determination  
6 by the secretary of the amount of revenue required for administration of  
7 the provisions of this act.

8 (b) The secretary shall remit all moneys received from the fees  
9 established pursuant to this section to the state treasurer in accordance with  
10 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt  
11 of each such remittance, the state treasurer shall deposit the entire amount  
12 in the state treasury to the credit of the ~~state general~~ *asbestos remediation*  
13 fund.

14 Sec. 3. K.S.A. 65-5314 is hereby amended to read as follows: 65-  
15 5314. (a) Any business entity which violates any provision of this act or  
16 any rules and regulations adopted under this act, in addition to any other  
17 penalty provided by law, may incur a civil penalty imposed under  
18 subsection (b) in an amount not to exceed \$5,000 for each violation and, in  
19 the case of a continuing violation, every day such violation continues shall  
20 be deemed a separate violation.

21 (b) The secretary, upon a finding that a business entity has violated  
22 any provision of this act or any rules and regulations adopted under this  
23 act, may impose a civil penalty within the limits provided in this section  
24 upon such business entity, which civil penalty shall be in an amount to  
25 constitute an actual and substantial economic deterrent to the violation for  
26 which the civil penalty is assessed.

27 (c) No civil penalty shall be imposed under this section except upon  
28 the written order of the secretary after notification and hearing, if a hearing  
29 is requested, in accordance with the provisions of the Kansas  
30 administrative procedure act.

31 (d) Any business entity aggrieved by an order of the secretary made  
32 under this section may appeal such order to the district court in the manner  
33 provided by the Kansas judicial review act. An appeal to the district court  
34 or to an appellate court shall not stay the payment of the civil penalty. If  
35 the court sustains the appeal, the secretary shall refund forthwith the  
36 payment of any civil penalty to the business entity with interest at the rate  
37 established by K.S.A. 16-204, and amendments thereto, from the date of  
38 payment of the penalty.

39 (e) Any penalty recovered pursuant to the provisions of this section  
40 shall be remitted to the state treasurer, deposited in the state treasury and  
41 credited to the ~~state general asbestos remediation~~ *{state general}* fund.

42 Sec. 4. K.S.A. 65-5309 and 65-5314 are hereby repealed.

43 Sec. 5. This act shall take effect and be in force from and after its

- 1 publication in the statute book.