

## SENATE BILL No. 416

By Committee on Utilities

2-8

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1 AN ACT concerning the secretary of health and environment; relating to  
2 solid waste, vehicle tire disposal, tire tax; abolishing the solid waste  
3 grant advisory committee; amending K.S.A. 65-3415a and 65-3424d  
4 and K.S.A. 2015 Supp. 65-3424g and repealing the existing sections;  
5 also repealing K.S.A. 2015 Supp. 65-3426.

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

8 Section 1. K.S.A. 65-3415a is hereby amended to read as follows: 65-  
9 3415a. (a) There is hereby created in the state treasury the solid waste  
10 management fund.

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

14 (1) Solid waste tonnage fees imposed pursuant to K.S.A. 65-3415b,  
15 and amendments thereto;

16 (2) application and annual fees provided for by K.S.A. 65-3407, and  
17 amendments thereto;

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

21 (4) any other moneys provided by law.

22 Upon receipt of each such remittance, the state treasurer shall deposit in  
23 the state treasury any amount remitted pursuant to this subsection to the  
24 credit of the solid waste management fund.

25 (c) Moneys in the solid waste management fund shall be expended  
26 for the following purposes:

27 (1) Grants to counties or groups of counties or designated city or  
28 cities pursuant to K.S.A. 65-3415, and amendments thereto;

29 (2) monitoring and investigating solid waste management plans of  
30 counties and groups of counties;

31 (3) payment of extraordinary costs related to monitoring permitted  
32 solid waste processing facilities and disposal areas, both during operation  
33 and after closure;

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

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

7 (6) payment for emergency action by the secretary as necessary or  
8 appropriate to assure that the public health or safety is not threatened  
9 whenever there is a release from a solid waste processing facility or a solid  
10 waste disposal area;

11 (7) payment for corrective action by the secretary at an active or  
12 closed solid waste processing facility or a solid waste disposal area where  
13 solid waste management activity has resulted in an actual or potential  
14 threat to human health or the environment, if the owner or operator has not  
15 been identified or is unable or unwilling to perform corrective action;

16 (8) payment of the administrative, technical and legal costs incurred  
17 by the secretary in carrying out the provisions of K.S.A. 65-3401 through  
18 65-3423, and amendments thereto, including the cost of any additional  
19 employees or increased general operating costs of the department  
20 attributable therefor;

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

23 (10) direct payments to reimburse counties or cities for household,  
24 farmer or exempt small quantity generator hazardous wastes generated  
25 from persons not served by existing household hazardous waste programs  
26 or direct payment of contractors for the disposal costs of such wastes;

27 ~~(11) payment of costs associated with the solid waste grants advisory~~  
28 ~~board pursuant to K.S.A. 65-3426, and amendments thereto;~~

29 ~~(12)~~ with the consent of the city or county, payment for the removal  
30 and disposal or on-site stabilization of solid waste which has been illegally  
31 dumped when the responsible party is unknown, unwilling or unable to  
32 perform the necessary corrective action, provided that: (A) Moneys in the  
33 fund shall be used to pay only 75% of the costs of such corrective action  
34 and the city or county shall pay the remaining 25% of such costs; and (B)  
35 not more than \$10,000 per site shall be expended from the fund for such  
36 corrective action;

37 ~~(13)~~ (12) payment of the costs to administer regional or statewide  
38 waste collection programs designed to remove hazardous materials and  
39 wastes from homes, farms, ranches, institutions and small businesses not  
40 generally covered by state or federal hazardous waste laws and rules and  
41 regulations; and

42 ~~(14)~~ (13) payment for the disposal of household hazardous waste  
43 generated as a result of community clean-up activities following natural

1 disasters such as floods and tornadoes.

2 (d) If the secretary determines that expenditures from the solid waste  
3 management fund are necessary to perform authorized corrective actions  
4 related to solid waste management activities, the person or persons  
5 responsible for illegal dumping activity or the operation or long-term care  
6 of a disposal area whose failure to comply with this act, rules and  
7 regulations promulgated thereunder, or permit conditions resulted in such  
8 determination, shall be responsible for the repayment of those amounts  
9 expended. The secretary shall take appropriate action to enforce this  
10 provision against any responsible person. If amounts are recovered for  
11 payment for corrective action pursuant to subsection (c)~~(+2)~~ (11), 25% of  
12 the amount recovered shall be paid to the city or county that shared in the  
13 cost of the corrective action. Otherwise, the secretary shall remit any  
14 amounts recovered and collected in such action to the state treasurer in  
15 accordance with the provisions of K.S.A. 75-4215, and amendments  
16 thereto. Upon receipt of each such remittance, the state treasurer shall  
17 deposit the entire amount in the state treasury to the credit of the solid  
18 waste management fund. Prior to initiating any corrective action activities  
19 authorized by this section, the secretary shall give written notice to the  
20 person or persons responsible for the waste to be cleaned up and to the  
21 property owner that the department will undertake corrective action if the  
22 responsible person or persons do not perform the necessary work within a  
23 specified time period. The department and its representatives are  
24 authorized to enter private property to perform corrective actions if the  
25 responsible party fails to perform required clean-up work but no such entry  
26 shall be made without the property owner's consent except upon notice and  
27 hearing in accordance with the Kansas administrative procedure act and a  
28 finding that the solid waste creates a public nuisance or adversely affects  
29 the public health or the environment.

30 (e) Expenditures from the solid waste management fund shall be  
31 made in accordance with appropriations acts upon warrants of the director  
32 of accounts and reports issued pursuant to vouchers approved by the  
33 secretary or a person designated by the secretary.

34 (f) On or before the 10<sup>th</sup> of each month, the director of accounts and  
35 reports shall transfer from the state general fund to the solid waste  
36 management fund interest earnings based on:

37 (1) The average daily balance of moneys in the solid waste  
38 management fund for the preceding month; and

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

41 (g) The solid waste management fund shall be used for the purposes  
42 set forth in this act and for no other governmental purposes. It is the intent  
43 of the legislature that the fund shall remain intact and inviolate for the

1 purposes set forth in this act, and moneys in the fund shall not be subject  
2 to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and  
3 amendments thereto.

4 (h) The secretary shall prepare and deliver to the legislature on or  
5 before the first day of each regular legislative session, a report which  
6 summarizes all expenditures from the solid waste management fund, fund  
7 revenues and recommendations regarding the adequacy of the fund to  
8 support necessary solid waste management programs.

9 Sec. 2. K.S.A. 65-3424d is hereby amended to read as follows: 65-

10 3424d. (a) In addition to any other tax imposed upon the retail sale of new  
11 vehicle tires, there is hereby imposed on retail sales of new vehicle tires (,  
12 excluding innertubes), *but* including new tires mounted on a vehicle sold  
13 at retail for the first time, an excise tax of ~~\$.25~~ \$.15 per vehicle tire. Such  
14 tax shall be paid by the purchaser of such tires and collected by the retailer  
15 thereof.

16 (b) The tax imposed by this section collected by the retailer shall  
17 become due and payable as follows: When the total tax for which any  
18 retailer is liable under this act does not exceed the sum of \$80 in any  
19 calendar year, the retailer shall file an annual return on or before January  
20 25 of the following year; when the total tax liability does not exceed  
21 \$1,600 in any calendar year, the retailer shall file returns quarterly on or  
22 before the 25<sup>th</sup> day of the month following the end of each calendar  
23 quarter; when the total tax liability exceeds \$1,600 in any calendar year,  
24 the retailer shall file a return for each month on or before the 25<sup>th</sup> day of  
25 the following month. Each person collecting the tax imposed pursuant to  
26 this section shall make a true report to the department of revenue, on a  
27 form prescribed by the secretary of revenue, providing such information as  
28 may be necessary to determine the amounts of taxes due and payable  
29 hereunder for the applicable month or months, which report shall be  
30 accompanied by the tax disclosed thereby. Records of sales of new tires  
31 shall be kept separate and apart from the records of other retail sales made  
32 by the person charged to collect the tax imposed pursuant to this section in  
33 order to facilitate the examination of books and records as provided herein.

34 (c) The secretary of revenue or the secretary's authorized  
35 representative shall have the right at all reasonable times during business  
36 hours to make such examination and inspection of the books and records  
37 of the person required to collect the tax imposed pursuant to this section as  
38 may be necessary to determine the accuracy of such reports required  
39 hereunder.

40 (d) The secretary of revenue is hereby authorized to administer and  
41 collect the tax imposed by this section and to adopt such rules and  
42 regulations as may be necessary for the efficient and effective  
43 administration and enforcement of the collection thereof. Whenever any

1 person liable to collect the taxes imposed hereunder refuses or neglects to  
2 pay them, the amount, including any penalty, shall be collected in the  
3 manner prescribed for the collection of the retailers' sales tax by K.S.A.  
4 79-3617, and amendments thereto.

5 (e) The secretary of revenue shall remit all revenue collected under  
6 the provisions of this section to the state treasurer in accordance with the  
7 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
8 each such remittance, the state treasurer shall deposit the entire amount in  
9 the state treasury to the credit of the waste tire management fund.

10 (f) Whenever, in the judgment of the secretary of revenue, it is  
11 necessary, in order to secure the collection of any taxes, penalties or  
12 interest due, or to become due, under the provisions of this act, the  
13 secretary may require any person charged with the collection of such tax to  
14 file a bond with the director of taxation under conditions established by  
15 and in such form and amount as prescribed by rules and regulations  
16 adopted by the secretary.

17 (g) The secretary of revenue and the secretary of health and  
18 environment shall cooperate to: (1) Ensure that retailers required to collect  
19 the tax imposed by this section collect such tax on sales of tires for all  
20 vehicles, as defined by K.S.A. 65-3424, and amendments thereto; and (2)  
21 develop and distribute to tire retailers educational materials that emphasize  
22 appropriate waste tire management practices.

23 Sec. 3. K.S.A. 2015 Supp. 65-3424g is hereby amended to read as  
24 follows: 65-3424g. (a) There is hereby established in the state treasury the  
25 waste tire management fund.

26 (b) Money from the following sources shall be credited to the waste  
27 tire management fund:

28 (1) Revenue collected from the excise tax by K.S.A. 65-3424d, and  
29 amendments thereto;

30 (2) permit application and renewal fees provided for by K.S.A. 65-  
31 3424b, and amendments thereto;

32 (3) interest provided for by subsection ~~(f)~~ (e);

33 (4) additional sources of funding such as reimbursements and  
34 appropriations intended to be used for the purposes of the fund;

35 (5) any recoveries from abatement and enforcement actions provided  
36 for by K.S.A. 65-3424k, and amendments thereto; and

37 (6) any other moneys provided by law.

38 (c) Moneys in the waste tire management fund shall be used only for  
39 the purpose of:

40 (1) Paying compensation and other expenses of employing personnel  
41 to carry out the duties of the secretary pursuant to K.S.A. 65-3424 through  
42 65-3424h, and amendments thereto, but not more than \$250,000;

43 (2) action by the department to implement interim measures to

1 minimize nuisances or risks to public health or the environment that are or  
2 could be created by waste tire accumulations, until the responsible party  
3 can fully abate the site or until a state clean-up occurs pursuant to K.S.A.  
4 65-3424k, and amendments thereto; *and*

5 (3) action by the department to pay for the removal and disposal or  
6 on-site stabilization of waste tires which have been illegally accumulated  
7 or illegally managed, when the responsible party is unknown or unwilling  
8 or unable to perform the necessary corrective action;

9 ~~(4) the costs of using contractors to provide: (A) Public education~~  
10 ~~regarding proper management of waste tires; (B) technical training of~~  
11 ~~persons on the requirements of solid waste laws and rules and regulations~~  
12 ~~relating to waste tires; and (C) services described in subsection (i) of~~  
13 ~~K.S.A. 65-3424k, and amendments thereto;~~

14 ~~(5) grants to public or private entities for up to 50% of the cost to~~  
15 ~~start-up or enhance projects to recycle waste tires or recover energy~~  
16 ~~through waste tire combustion; and~~

17 ~~(6) grants to local units of government and any public or private~~  
18 ~~school for grades kindergarten through twelve to pay up to 50% of the~~  
19 ~~costs to purchase tire derived products made from recycled waste tires. As~~  
20 ~~used in this section, "tire derived products" means athletic field surfacing,~~  
21 ~~playground cover, horticulture products and molded or extruded rubber~~  
22 ~~products made from recycled waste tires.~~

23 ~~(d) All grant applications received for waste tire recycling grants shall~~  
24 ~~be reviewed by the solid waste grants advisory committee established~~  
25 ~~pursuant to K.S.A. 65-3426, and amendments thereto. Waste tire recycling~~  
26 ~~grants shall be subject to the requirements set forth in subsection (g) of~~  
27 ~~K.S.A. 65-3415, and amendments thereto, related to the misuse of grant~~  
28 ~~funds with the exception that any grant funds recovered by the secretary~~  
29 ~~shall be deposited to the waste tire management fund. Waste tire~~  
30 ~~management funds shall be used only for waste tire recycling grants.~~  
31 ~~Waste tire grants shall not be awarded, nor shall waste tire funds be~~  
32 ~~disbursed to a grant recipient, if the department determines that the grant~~  
33 ~~applicant or recipient is operating in substantial violation of applicable~~  
34 ~~environmental laws or regulations administered by the department.~~

35 ~~(e) (d) All expenditures from the waste tire management fund shall be~~  
36 ~~made in accordance with appropriations acts upon warrants of the director~~  
37 ~~of accounts and reports issued pursuant to vouchers approved by the~~  
38 ~~secretary.~~

39 ~~(f) (e) On or before the 10<sup>th</sup> of each month, the director of accounts~~  
40 ~~and reports shall transfer from the state general fund to the waste tire~~  
41 ~~management fund interest earnings based on: (1) The average daily~~  
42 ~~balance of moneys in the waste tire management fund for the preceding~~  
43 ~~month; and (2) the net earnings rate for the pooled money investment~~

1 portfolio for the preceding month.

2 Sec. 4. K.S.A. 65-3415a and 65-3424d and K.S.A. 2015 Supp. 65-  
3 3424g and 65-3426 are hereby repealed.

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