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MEMORANDUM

To: The House Standing Committee on Agriculture

From: The Office of Revisor of Statutes

Date: February 4, 2021

Re: HB 2155

HB 2155 would amend K.S.A. 65-171v by striking the current language regarding soil and water pollutant releases and cleanup and replacing the stricken language with new language regarding pollutants and cleanup.

Specifically, subsection (a) of the bill would define relevant terms. The definition of "pollutant" would expressly state that the term does not include animal or crop waste or manure on an agricultural operation or in an agricultural facility. Similarly, the definition of "release" would not include any emission, discharge, spillage, leaking, etc. that occurs as a part of normal agricultural activities.

Subsection (b) would impose certain duties on the secretary of health and environment, including adopting rules and regulations concerning responses to and reporting of pollutant releases, providing minimum reportable quantities, ordering cleanup and taking necessary action to perform cleanup.

Subsection (c) would allow the secretary to: (1) provide guidance, oversight and assistance for cleanup and response of a pollutant release; (2) take necessary action to perform a cleanup if the responsible person fails to do so; and (3) perform cleanup in an emergency.

Subsection (d) states that when a pollutant is released, the person responsible for the release is responsible for the cleanup and the repayment of costs incurred by the department for cleanup. Action could be brought against the responsible person if they fail to pay the costs of cleanup.

Subsection (e) would allow the secretary to impose a penalty of up to \$5,000 for a violation. In the case of a continuing violation, a penalty fine cap of \$15,000 would apply. Any penalty money received would be credited to the emergency response activities account in the natural resources damages trust fund.

HB 2155 would become effective upon publication in the statute book.