

**HOUSE BILL No. 2203**

By Committee on Appropriations

2-2

1 AN ACT concerning the Kansas asbestos control program; creating the  
2 asbestos remediation fund, fees and purposes; amending K.S.A. 65-  
3 5309 and 65-5314 and repealing the existing sections.

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

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

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

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

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

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

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

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

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

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

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

33 (d) All expenditures from the asbestos remediation fund shall be  
34 made in accordance with appropriation acts upon warrants of the director  
35 of accounts and reports issued pursuant to vouchers approved by the  
36 secretary for the purposes set forth in this section.

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

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

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

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

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

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

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

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

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