HOUSE BILL No. 2915

By Representatives Kuether, Barnes, Compton, Crow, Dillmore, Flaharty, Flora, Freeborn, Grant, Humrickhouse, Hutchins, Kirk, Klein, Levinson, Lloyd, Loganbill, McChure, McKinney, Myers, Phelps, Pottorff, Showalter, Spangler, Swenson, Thimesch, Toelkes, Wells and Wilson

AN ACT concerning solid waste; relating to certain programs encouraging waste reduction, recycling and reuse; amending K.S.A. 2001 Supp. 65-3406 and 65-3415a and repealing the existing sections.

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

Section 1. K.S.A. 2001 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.
(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 nonhazardous special wastes.

(21) (A) Participate in national and regional partnerships of government and private business which promote the principles of: (i) Reduction

of disposal of solid waste, especially common wastes such as consumer
electronic equipment; (ii) reduction of energy and material used in pro-
duction of consumer products and reduction or elimination of toxic or
hazardous components of such products; and (iii) increased collection,
recycling and reuse of consumer products; and (B) contract with a private
statewide recycling organization or association to implement such prin-
ciples within this state.

(b) In adopting rules and regulations, the secretary shall allow the
exemption contained in subsection (f)(1) of 40 CFR 258.1 (October 9,
1991), as amended and in effect on the effective date of this act.
(c) (1) Any rules and regulations adopted by the secretary which es-
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tablish standards for solid waste processing facilities or solid waste dis-
posal areas that are more stringent than the standards required by federal
law or applicable federal regulations on such date shall not become ef-
fective 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 adopted before January 1, 1995, which establish standards for
location, design and operation of solid waste processing facilities and dis-
posal areas.
(d) Any solid waste disposal area which qualifies for the exemption
provided for by subsection (b) and which successfully demonstrates that
naturally occurring geological conditions provide sufficient protection
against groundwater contamination shall not be required to construct a
landfill liner or leachate collection system. The secretary shall adopt rules
and regulations which establish criteria for performing this demonstration
and standards for liner and leachate collection systems for exempt landfills
which fail the demonstration. Solid waste disposal areas which qualify for
the exemption provided for by subsection (b) may be designed with
trenches or units which have straight vertical walls. All solid waste disposal
areas which qualify for the exemption provided for by subsection (b) shall
be required to comply with all applicable rules and regulations adopted
by the secretary and approved by the U.S. environmental protection
agency, including location restrictions, operating requirements and clo-
sure standards for municipal solid waste landfills. Operating requirements
include, but are not limited to, hazardous waste screening, daily cover,
intermediate cover, disease vector control, gas monitoring and manage-
ment, air emissions, survey controls, compaction, recordkeeping and
groundwater monitoring.

The identification of groundwater contamination caused by disposal
activities at a solid waste disposal area which has qualified for the exemp-
tion provided for by subsection (b) shall result in:
(1) The loss of such exemption; and
(2) the application of all corrective action and design requirements
specified in federal laws and regulations, or in equivalent rules and reg-
ulations adopted by the secretary and approved by the U.S. environmental
protection agency, to such disposal area.

Sec. 2. K.S.A. 2001 Supp. 65-3415a is hereby amended to read as
follows: 65-3415a. (a) There is hereby created in the state treasury the
solid waste management fund.
(b) The secretary shall remit to the state treasurer, in accordance with
the provisions of K.S.A. 75-4215, and amendments thereto, all moneys
collected or received by the secretary from the following sources:
(1) Solid waste tonnage fees imposed pursuant to K.S.A. 65-3415b,
and amendments thereto;
(2) application and annual fees provided for by K.S.A. 65-3407, and
amendments thereto;
(3) gifts, grants, reimbursements or appropriations intended to be
used for the purposes of the fund, but excluding federal grants and co-
operative agreements; and
(4) any other moneys provided by law.
Upon receipt of each such remittance, the state treasurer shall deposit
in the state treasury any amount remitted pursuant to this subsection to
the credit of the solid waste management fund.
(c) Moneys in the solid waste management fund shall be expended
for the following purposes:
(1) Grants to counties or groups of counties or designated city or
cities pursuant to K.S.A. 65-3415, and amendments thereto;
(2) monitoring and investigating solid waste management plans of
counties and groups of counties;
(3) payment of extraordinary costs related to monitoring permitted
solid waste processing facilities and disposal areas, both during operation
and after closure;
(4) payment of costs of postclosure cleanup of permitted solid waste
disposal areas which, as a result of a postclosure occurrence, pose a sub-
stantial hazard to public health or safety or to the environment;
(5) emergency payment for costs of cleanup of solid waste disposal
areas which were closed before the effective date of this act and which
pose a substantial risk to the public health or safety or to the environment,
but the total amount of such emergency payments during a fiscal year
shall not exceed an amount equal to 50% of all amounts credited to the
fund during the preceding fiscal year;
(6) payment for emergency action by the secretary as necessary or
appropriate to assure that the public health or safety is not threatened
whenever there is a release from a solid waste processing facility or a solid
waste disposal area;
(7) payment for corrective action by the secretary at an active or closed solid waste processing facility or a solid waste disposal area where solid waste management activity has resulted in an actual or potential threat to human health or the environment, if the owner or operator has not been identified or is unable or unwilling to perform corrective action;
(8) payment of the administrative, technical and legal costs incurred by the secretary in carrying out the provisions of K.S.A. 65-3401 through 65-3423, and amendments thereto, including the cost of any additional employees or increased general operating costs of the department attributable therefor;
(9) development of educational materials and programs for informing the public about solid waste issues;
(10) direct payments to reimburse counties or cities for household, farmer or exempt small quantity generator hazardous wastes generated from persons not served by existing household hazardous waste programs or direct payment of contractors for the disposal costs of such wastes;
(11) payment of costs associated with the solid waste grants advisory board pursuant to K.S.A. 2001 Supp. 65-3426, and amendments thereto;
(12) with the consent of the city or county, payment for the removal and disposal or on-site stabilization of solid waste which has been illegally dumped when the responsible party is unknown, unwilling or unable to perform the necessary corrective action, provided that: (A) Moneys in the fund shall be used to pay only 75% of the costs of such corrective action and the city or county shall pay the remaining 25% of such costs; and (B) not more than $10,000 per site shall be expended from the fund for such corrective action;
(13) payment of the costs to administer regional or statewide waste collection programs designed to remove hazardous materials and wastes from homes, farms, ranches, institutions and small businesses not generally covered by state or federal hazardous waste laws and rules and regulations; and
(14) payment for the disposal of household hazardous waste generated as a result of community clean-up activities following natural disasters such as floods and tornados; and
(15) payment of costs incurred pursuant to subsection (a)(21) of K.S.A. 65-3406, and amendments thereto.
(d) If the secretary determines that expenditures from the solid waste management fund are necessary to perform authorized corrective actions related to solid waste management activities, the person or persons responsible for illegal dumping activity or the operation or long-term care of a disposal area whose failure to comply with this act, rules and regulations promulgated thereunder, or permit conditions resulted in such
determination, shall be responsible for the repayment of those amounts expended. The secretary shall take appropriate action to enforce this provision against any responsible person. If amounts are recovered for payment for corrective action pursuant to subsection (c)(12), 25% of the amount recovered shall be paid to the city or county that shared in the cost of the corrective action. Otherwise, the secretary shall remit any amounts recovered and collected in such action to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the solid waste management fund. Prior to initiating any corrective action activities authorized by this section, the secretary shall give written notice to the person or persons responsible for the waste to be cleaned up and to the property owner that the department will undertake corrective action if the responsible person or persons do not perform the necessary work within a specified time period. The department and its representatives are authorized to enter private property to perform corrective actions if the responsible party fails to perform required clean-up work but no such entry shall be made without the property owner’s consent except upon notice and hearing in accordance with the Kansas administrative procedure act and a finding that the solid waste creates a public nuisance or adversely affects the public health or the environment.

(e) Expenditures from the solid waste management 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 secretary or a person designated by the secretary.

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

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

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

(g) The solid waste management fund shall be used for the purposes set forth in this act and for no other governmental purposes. It is the intent of the legislature that the fund shall remain intact and inviolate for the purposes set forth in this act, and moneys in the fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

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

Sec. 3. K.S.A. 2001 Supp. 65-3406 and 65-3415a are hereby repealed.

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