HOUSE BILL No. 2432

By Representative Highland

AN ACT concerning agriculture; relating to environmental remediation; establishing the Kansas pesticide waste disposal program and the Kansas pesticide waste disposal fund; allowing annual transfers from the Kansas agricultural remediation fund to the Kansas pesticide waste disposal fund; amending K.S.A. 2-3702 and K.S.A. 2019 Supp. 2-3708 and repealing the existing sections.

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

New Section 1. (a) There is hereby established a Kansas pesticide waste disposal program to be administered by the secretary of agriculture for the collection and disposal of pesticide waste in the state.

(b) The program shall be funded in accordance with the provisions of section 2, and amendments thereto.

New Sec. 2. (a) There is hereby created in the state treasury the Kansas pesticide waste disposal fund. All moneys credited to the Kansas pesticide waste disposal fund shall be used by the secretary of agriculture for the Kansas pesticide waste disposal program created in accordance with section 1, and amendments thereto. All expenditures from the Kansas pesticide waste disposal fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture.

(b) The Kansas agricultural remediation board may approve an annual transfer of moneys from the Kansas agricultural remediation fund to the Kansas pesticide waste disposal fund in an amount that shall not exceed $50,000 in any calendar year. Upon such approval, the director of accounts and reports shall transfer such approved moneys from the Kansas agricultural remediation fund to the Kansas pesticide waste disposal fund.

(c) On or before January 1 of each year, the secretary of agriculture shall submit to the Kansas remediation board a report concerning the annual expenditures made from the pesticide waste disposal program.

(d) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas pesticide waste disposal fund interest earnings based on:

(1) The average daily balance of moneys in the Kansas pesticide waste disposal fund for the preceding month; and

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

Sec. 3. K.S.A. 2-3702 is hereby amended to read as follows: 2-3702.
As used in K.S.A. 2-3701—through 2-3714 et seq., and amendments thereto:
(a) "Agricultural or specialty chemical" means any pesticide, fertilizer, plant amendment or soil amendment but does not include nitrate and related nitrogen from a natural source.
(b) "Board" means the Kansas agricultural remediation board created by K.S.A. 2-3709, and amendments thereto.
(c) "Corrective action" means action in response to release of an agricultural or specialty chemical that poses a threat to human health or the environment.
(d) "Eligible corrective action costs" means reasonable and necessary costs of corrective action, as determined in accordance with rules and regulations adopted by the board.
(e) "Eligible lending institution" means:
(1) A bank, as defined in K.S.A. 75-4201, and amendments thereto, that agrees to participate in the remediation linked deposit program and is eligible to be a depository of state funds; or
(2) an institution of the farm credit system organized under the federal farm credit act of 1971 (12 U.S.C. § 2001), as amended, that agrees to participate in the remediation linked deposit program and provides securities acceptable to the pooled money investment board pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.
(f) "Eligible person" means:
(1) A responsible party or an owner of real property, but does not include the state, any state agency, any political subdivision of the state, the federal government or any agency of the federal government; or
(2) a person who: (A) is involved in a transaction relating to real property; (B) is not a responsible party or owner of the real property; and (C) voluntarily takes corrective action on the property in response to a request or order for corrective action from the department of health and environment.
(g) "Fund" means the Kansas agricultural remediation fund established by K.S.A. 2-3711, and amendments thereto.
(h) "Kansas pesticide waste disposal fund" means the fund established by section 2, and amendments thereto.
(i) "Kansas pesticide waste disposal program" means the program established by section 1, and amendments thereto.
(j) "Linked deposit" means an investment account placed by the director of investments under the provisions of article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto, with an eligible
lending institution for the purpose of the remediation linked deposit loan program.

(k) "Pesticide" means the same as provided in K.S.A. 2-2202, and amendments thereto.

(l) (1) "Pesticide waste" means any pesticide that:
(A) is not exempt from registration under the federal insecticide, fungicide, and rodenticide act, 7 U.S.C. § 136w(b), as in effect on January 1, 2020;
(B) is not eligible for sale or distribution; and
(C) is not otherwise eligible for return or disposal.

(m) "Release" means any spill, leak, emission, discharge, escape or disposal of an agricultural or specialty chemical into the soils or waters of the state.

(n) "Remediation linked deposit loan package" means the forms provided by the state treasurer for the purpose of applying for a remediation linked deposit.

(o) "Remediation linked deposit loan program" means the program provided for by K.S.A. 2-3703 through 2-3707, and amendments thereto.

(p) "Remediation reimbursement program" means the program provided for by K.S.A. 2-3709 through 2-3713, and amendments thereto.

(q) "Site" means all land and water areas, including air space, and all plants, animals, structures, buildings, contrivances and machinery, whether fixed or mobile, including anything used for transportation, within a one-half mile radius of a release.

Sec. 4. K.S.A. 2019 Supp. 2-3708 is hereby amended to read as follows: 2-3708. (a) There is hereby established the remediation reimbursement program. The program shall be for the purpose of:
(1) Providing reimbursement to eligible persons for the costs of corrective action approved by the department of health and environment or taken in accordance with requests or orders issued by the department of health and environment; and
(2) providing funding to the Kansas pesticide waste disposal program
in accordance with the provisions of section 2, and amendments thereto.

(b) The amount of reimbursement that an eligible person may receive from the fund shall be limited as follows:

(1) Except as provided in paragraph (2), for an eligible person who has paid all applicable assessments imposed pursuant to K.S.A. 2-3713, and amendments thereto, reimbursement per site shall not exceed an amount equal to: (A) 90% of total eligible corrective action costs greater than $1,000 and less than or equal to $100,000; plus (B) 80% of total eligible corrective action costs greater than $100,000 and less than or equal to $200,000. The total amount reimbursed for any one site shall not exceed $200,000 within a 5 year period or as otherwise set forth by the board pursuant to rules and regulations, unless the property has been sold or leased and both the buyer and seller or lessee and lessor are responsible for remediation, in which case the total amount reimbursed for any such site shall not exceed $400,000 within a five year period or as otherwise set forth by the board pursuant to rules and regulations.

(2) For an eligible person who is not required to pay or has not paid any assessment imposed pursuant to K.S.A. 2-3713, and amendments thereto, or for a pesticide dealer who has paid the annual $5 assessment pursuant to subsection (a)(4) of K.S.A. 2-3713(a)(4), and amendments thereto, reimbursement per site shall not exceed an amount equal to 100% of total eligible corrective action costs greater than $1,000 and less than or equal to $10,000.

Sec. 5. K.S.A. 2-3702 and K.S.A. 2019 Supp. 2-3708 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.