AN ACT concerning the Kansas asbestos control program; establishing the asbestos remediation fund; specifying the expenditure of moneys therefrom; crediting certain fees and penalties therein; amending K.S.A. 65-5309 and 65-5314 and repealing the existing sections.

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

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

(1) The secretary of health and environment 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:

(A) Permit and approval fees collected under K.S.A. 65-5309, and amendments thereto;
(B) any moneys recovered by the state under the provisions of this act, including administrative expenses, civil penalties collected under K.S.A. 65-3514, and amendments thereto, and moneys paid under any agreement, stipulation or settlement; and
(C) interest attributable to investment of moneys in the fund.

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

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

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

(1) Average daily balance of moneys in the asbestos remediation fund for the preceding month; and
(2) net earnings rate of the pooled money investment portfolio for the preceding month.

(d) All expenditures from the asbestos remediation 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 for the purposes set forth in this section.

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

(b) The secretary shall remit all moneys received from the fees established pursuant to this section 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 state general asbestos remediation fund.

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

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

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

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

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

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

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