

**SUPPLEMENT TO  
PRELIMINARY SUMMARY OF LEGISLATION  
2020 KANSAS LEGISLATURE**

**KLRD**

*Providing objective research and fiscal  
analysis for the Kansas Legislature*

This updated version of the March 27, 2020 publication contains summaries of selected bills enacted by the Legislature at its May 21, 2020, Sine Die Session. Bills that have not yet been signed by the Governor are included.

The first Preliminary Summary containing summaries of major bills which were enacted through adjournment of the Legislature pursuant to SCR 1615 on March 19, 2020, was distributed on March 27, 2020. (Given the abbreviated session, KLRD will only issue one supplement this year.)

Highlights, a summary of major legislation in newsletter form, will be prepared and mailed to legislators as soon as possible after the Session. The Summary of Legislation, which accounts for all bills enacted by the 2020 Legislature, will be distributed at a later date.

These documents are available on the Kansas Legislative Research Department's website: <http://kslegislature.org/klrd> (under "Publications").

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## CRIMES AND CRIMINAL MATTERS

### Restitution Orders; Senate Sub. for HB 2034

**Senate Sub. for HB 2034** amends law related to court orders for restitution by criminal defendants.

Under previous law, a court was required to order restitution unless the court found compelling circumstances that would render a plan of restitution unworkable. The bill amends this provision to require a court to order restitution and to specify that ordered restitution shall be due immediately, unless the court orders that the defendant be given a specified time to pay or be allowed to pay in specified installments, or the court finds compelling circumstances that would render restitution unworkable, either in whole or in part. The bill amends continuing provisions requiring the court to state reasons for unworkability on the record and requiring the court to initiate collection proceedings if the defendant is in noncompliance with the restitution order after 60 days to reflect the above amendments. The collection provisions also are amended to reflect enacted changes to related statutes.

A provision is added to allow a defendant subject to a restitution order entered prior to the effective date of the bill to file a motion prior to December 31, 2020, proposing payment of restitution in specified installments, if the order does not give the defendant a specified time to pay or set payment in specified installments. The court may recall the restitution order from the assigned agent until the court rules on the motion. If the court does not order payment in specified installments, or if the defendant does not file a motion by the above date, the restitution will be due immediately.

The bill specifies the above amendments are procedural in nature and shall be construed and applied retroactively.

The bill amends the statute governing conditions of probation or suspended sentence to direct that reparation or restitution in such cases be made in accordance with the procedure amended by the bill.

The bill becomes effective upon publication in the *Kansas Register*.

## DISASTER RELIEF

### **Omnibus Governmental Response to 2020 COVID-19 Pandemic; Senate Sub. for HB 2054**

**Senate Sub. for HB 2054** creates and amends law and makes appropriations regarding the governmental response to the 2020 COVID-19 pandemic in Kansas, as follows.

#### ***Coronavirus Relief Funds (Sections 1 through 4)***

The bill appropriates the Coronavirus Relief Fund (CRF) in the Legislative Coordinating Council (LCC) to provide relief for the effects of coronavirus in the state of Kansas in both fiscal year (FY) 2020 and FY 2021. The bill transfers all moneys and obligations upon the current Coronavirus Relief Fund – Federal Fund of the Office of the Governor into the newly created fund in the LCC. The bill abolishes the current Coronavirus Relief Fund – Federal Fund in the Office of the Governor.

Prior to expenditures or transfers from the CRF, Kansas state agencies shall submit expenditure requests to the Director of the Budget, who will present the requests to the Legislative Budget Committee (LBC). The LBC will meet and review each request and make recommendations regarding the agency requests to the LCC. The expenditures will be approved upon an affirmative vote of five members of the LCC. The bill also permits the LCC to continue approving such requests during the Legislative Session. If approval is granted, the Director of Accounts and Reports shall appropriate any funds necessary and transfer the moneys in the CRF to either existing or newly appropriated funds.

In addition to the CRF funds, the bill applies the same approval process described above to any federal funds received under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Families First Coronavirus Response Act (Families First Act), the Paycheck Protection Program and Health Care Enhancement Act, and any other federal law that provides moneys to the state for aid for coronavirus relief.

The bill renders the provisions of the 2019 and 2020 appropriations bills that provide general authority for the Governor to approve expenditure of federal funds as null and void, as it relates to aid received for the purposes of federal coronavirus relief.

#### ***State of Disaster Emergencies, Kansas Emergency Management Act, and Authority of Local Officials***

The bill creates and amends law related to state of disaster emergencies and the Kansas Emergency Management Act (KEMA), including the following provisions.

#### ***Ratification and Limitation of 2020 State of Disaster Emergencies (Section 5)***

The bill creates a section of law ratifying the COVID-19-related state of disaster emergency declared by the Governor on March 12, 2020, and ratified and continued by concurrent resolution through May 1, 2020. The bill also ratifies and continues through May 31, 2020, the state of disaster emergency declared by the Governor on April 30, 2020, and extended by the State Finance Council through May 26, 2020.

This section also prohibits the Governor from proclaiming any new COVID-19-related state of disaster emergency during 2020, unless the Governor makes specific application to the State Finance Council and such action is approved by an affirmative vote of at least six legislative members. If the Governor proclaims a new state of disaster emergency, the Governor is required to make specific application to the State Finance Council, and an affirmative vote of six of the legislative members is required, to order the closure or cessation of any business or commercial activity.

*Closure or Cessation of Business or Commercial Activity (Section 6)*

The bill creates a section of law applicable during any state of disaster emergency declared under KEMA, allowing the Governor to order the closure or cessation of any business or commercial activity (for-profit or not-for-profit) in response to any or all conditions necessitating the declared state of disaster emergency for 15 days. Upon specific application by the Governor to the State Finance Council, and an affirmative vote of at least 6 legislative members of the Council, the closure or cessation of business or commercial activity may be extended for specified periods not to exceed 30 days each.

Any order violating or exceeding these restrictions will not have force and effect of law during the period of a state of disaster emergency and will be null and void.

The provisions of this section expire on January 26, 2021.

*Amendments to KEMA (Sections 29, 30, and 32)*

The bill amends the section of KEMA allowing the Governor to declare a state of disaster emergency to specify this power is subject to the specific limits provided above regarding a COVID-19 new state of disaster emergency in 2020. The bill adds a provision stating the COVID-19 state of disaster emergency declared on April 30, 2020, shall terminate on May 31, 2020, except when the Legislature is not in session and upon specific application by the Governor to the State Finance Council and an affirmative vote of at least 6 legislative members of the Council, this state of emergency may be extended for specified periods not to exceed 30 days each, and no such extension shall continue past January 26, 2021.

The bill amends the section of KEMA governing the powers of the Governor during a state of disaster emergency to:

- Specify the orders the Governor may issue are to exercise the powers conferred in this section;
- Specify these orders may be issued during the state of disaster emergency ratified by the bill;
- Require the Governor to call a meeting of the State Finance Council within 24 hours of the issuance of any such order, for the purposes of reviewing the order;
- Replace a provision allowing such orders to be ratified by concurrent resolution of the Legislature with a provision declaring such orders null and void after the period of a state of disaster emergency has ended;

- Remove references to proclamations;
- Amend a provision allowing the Governor to perform and exercise other functions, powers, and duties to specify these must be in conformity with the *Kansas Constitution* and *Bill of Rights* and with the statutes of the state of Kansas, except any regulatory statute specifically suspended under the authority of this section;
- State the Governor shall not have the power or authority to temporarily or permanently seize, or authorize seizure of, any ammunition, or to suspend or limit the sale, dispensing, or transportation of firearms or ammunition pursuant to this section's listing of powers or any other executive authority;
- Require each order issued under the authority of this section to specify the provision or provisions by specific reference to each statutory paragraph that confers the power under which the order was issued, and
- Allow the Board of County Commissioners of any county to issue an order relating to public health that contains provisions that are less stringent than the provisions of a statewide executive order issued by the Governor. Any Board of County Commissioners issuing such an order will be required to make a finding, based upon advice from the local health officer or other local health officials, that the scope of provisions in the Governor's executive order are not necessary to protect the public health and safety of the county to be implemented in the county.

The bill amends the KEMA section making violation of KEMA or of any rule and regulation or lawful order or proclamation made pursuant to it a class A misdemeanor to:

- Remove a "knowing and willful" intent requirement;
- Change the penalty from a class A misdemeanor to a civil penalty of up to \$2,500 per violation, which may be assessed in addition to any other penalty provided by law;
- Direct enforcement of the section through an action brought under Chapter 60 of the *Kansas Statutes Annotated*, by the Attorney General or the county or district attorney in the county in which the violation took place, with any civil penalties recovered by a county or district attorney to be paid into the general fund of the county where the proceedings were instigated; and
- Allow the Attorney General or any county or district attorney to bring an action to enjoin, or to obtain a restraining order, against a person who has violated, is violating, or is otherwise likely to violate KEMA.

*Authority of Local Officials (Sections 22, 31, 33, and 34)*

The bill amends a statute governing states of local disaster emergency to require any state of local disaster emergency declaration be approved by the Board of County Commissioners or the governing body of the city, respectively, at the next meeting of the governing body.

The bill amends statutes regarding county boards of health and local health officers to clarify and standardize phrasing and to require any order issued by the county health officer, including orders issued as a result of an executive order of the Governor, and orders on behalf of a county regarding the remediation of any infectious disease, be approved by the Board of County Commissioners of the county affected by such order at the next meeting of the board. Any such approval is required to include an expiration date set by the Board of County Commissioners and may be revoked at an earlier date by a majority vote of the Board. The bill removes provisions requiring payment of compensation out of the county treasury and allowing removal of the local health officer by the Secretary of Health and Environment. The bill amends a statute governing home rule powers to prohibit counties from exempting from or effecting changes in these statutes.

***COVID-19 Response and Reopening for Business Liability Protection Act (Act)***

The bill creates the COVID-19 Response and Reopening for Business Liability Protection Act (Act), as follows.

*Definitions (Section 8)*

The bill defines the following terms: “COVID-19,” “COVID-19 claim,” “COVID-19 public health emergency,” “disinfecting or cleaning supplies,” “healthcare provider,” “person,” “personal protective equipment,” “product liability claim,” “public health guidance,” and “qualified product.”

*Healthcare Provider Immunity (Section 9)*

The bill states, notwithstanding any other provision of law, a healthcare provider is immune from civil liability for damages, administrative fines, or penalties for acts, omissions, healthcare decisions, or the rendering of or the failure to render healthcare services, including services that are altered, delayed, or withheld, as a direct response to any COVID-19 state of disaster emergency under the KEMA.

This immunity applies to any claims for damages or liability arising out of or relating to acts, omissions, or healthcare decisions occurring during any state of disaster emergency pursuant to KEMA that are related to COVID-19.

This immunity does not apply to civil liability when it is established that the act, omission, or healthcare decision constituted gross negligence or willful, wanton, or reckless conduct. This immunity also does not apply to healthcare services not related to COVID-19 that have not been altered, delayed, or withheld because of the COVID-19 public health emergency.

*Business Liability (Section 10)*

The bill states that, notwithstanding any other provision of law, a person (or agent of such person) conducting business in Kansas shall not be held liable for a COVID-19 claim if the act or omission alleged to violate a duty of care was mandated or specifically and affirmatively permitted by a federal or state statute, regulation, or executive order passed or issued in response to the COVID-19 pandemic and applicable to the activity at issue at the time of the alleged exposure. The bill states this provision applies retroactively to any cause of action accruing on or after March 12, 2020.

*Product Liability (Section 11)*

The bill states that, notwithstanding any other provision of law, a person who designs, manufactures, labels, sells, distributes, provides, or donates a qualified product in response to the COVID-19 public health emergency shall not be liable in a civil action alleging a product liability claim involving the product if any of the above actions were taken at the specific request of or in response to a written order or other directive finding a public need for a qualified product, issued by the Governor, Adjutant General, or Division of Emergency Management, and the damages are not occasioned by willful, wanton, or reckless disregard of a known, substantial, and unnecessary risk that the product would cause serious injury to others. The bill states this provision applies retroactively to any cause of action accruing on or after March 12, 2020.

*Other Provisions (Section 12)*

The bill states that nothing in the Act creates, recognizes, or ratifies a claim or cause of action of any kind; eliminates a required element of any claim; affects workers' compensation law, including the exclusive application of such law; or amends, repeals, alters, or affects any other immunity or limitation of liability. The bill states this provision applies retroactively to any cause of action accruing on or after March 12, 2020.

***Validity of Notarial Acts (Section 14)***

The bill creates a section of law stating that notarial acts performed by a Kansas notary public, while the personal appearance requirements are suspended pursuant to an executive order or other state law, shall be valid as if the individual had met the personal appearance requirement, even if the individual failed to do so, as long as the notarial act fulfills all requirements prescribed by the executive order or other state law and all other requirements not relating to personal appearance.

***First Responder Notifications (Section 15)***

The bill creates a section of law requiring, during a COVID-19-related state of disaster emergency declared under KEMA, each county health officer to work with first responder agencies operating in the county to share information indicating where a person testing positive for, or under quarantine or isolation due to, COVID-19 resides or can be expected to be present. The bill requires the information include the person's address and duration of any quarantine, isolation, or expected recovery period, as determined by the county health officer, and only be

used for the purpose of allowing the first responders to be alert to the need for utilizing appropriate personal protective equipment during the response activity.

The bill requires the above information be provided to the 911 call center serving the address provided and limits the 911 call center to disseminating the information only to first responders responding to the listed address.

The information is not a public record and is not subject to the Kansas Open Records Act (KORA). This exclusion from KORA expires on July 1, 2025, unless the Legislature reviews and reenacts the provision pursuant to the applicable section of KORA.

### ***Adult Care Homes (Section 16)***

The bill creates a section of law requiring the Kansas Department for Aging and Disability Services (KDADS) to take the following actions with regard to adult care homes:

- Promptly, and no later than 30 days following the effective date of the bill, make or cause to be made infection control inspections;
- Provide the necessary personal protective equipment, sanitizing supplies, and testing kits appropriate to the needs of each facility on an ongoing basis, based upon:
  - Current number of residents;
  - Current number of full-time and part-time staff members;
  - Number of residents and staff who have tested positive for COVID-19 in the last 14 days;
  - Ability to separate residents with COVID-19 from non-COVID-19 residents; and
  - Any other factors deemed relevant by the Secretary for Aging and Disability Services; and
- Ensure that infection prevention and control best practices and recommendations based upon guidance from the U.S. Centers for Disease Control and Prevention and the Kansas Department of Health and Environment (KDHE) are adopted and made available publicly.

### ***Health Care***

#### ***Telemedicine (Section 17)***

The bill creates a section of law addressing telemedicine, including the following provisions.

The bill allows a physician to issue a prescription or order administration of medication, including a controlled substance, for a patient, without conducting an in-person examination of the patient.

A physician under quarantine, including self-imposed quarantine, may practice telemedicine.

A physician licensed in another state may practice telemedicine to treat patients in Kansas, if the physician advises the Board of Healing Arts (Board) of such practice in writing and in a manner determined by the Board and the physician holds an unrestricted license to practice medicine and surgery in the other state and is not the subject of any investigation or disciplinary action by the licensing agency. The Board may extend this provision to other healthcare professionals licensed and regulated by the Board as deemed necessary by the Board to address the impacts of COVID-19 and consistent with ensuring patient safety.

The bill requires a physician practicing telemedicine under this section to conduct an appropriate assessment and evaluation of the patient's current condition and document the appropriate medical indication for any prescription issued.

The bill specifies this section does not supersede or otherwise affect the provisions of statutes governing performance of abortions or prohibition of abortions delivered via telemedicine.

The section defines "physician" and "telemedicine." The section expires on January 26, 2021.

#### *Hospitals and Medical Care Facilities (Section 18)*

The bill creates a section of law regarding hospital and medical care facility usage, including the following provisions.

The section allows a hospital to admit patients in excess of its number of licensed beds or inconsistent with its licensed classification of beds, to the extent the hospital determines is necessary to treat COVID-19 patients and to separate COVID-19 patients and non-COVID-19 patients. A hospital admitting patients in this manner must notify KDHE as soon as practicable, but prior authorization is not required.

The section allows a hospital to use non-hospital space, including off-campus space, to perform COVID-19 testing, triage, quarantine, or patient care, to the extent the hospital determines is necessary to treat COVID-19 patients and to separate COVID-19 patients and non-COVID-19 patients. The KDHE may impose reasonable safety requirements on such use to maximize the availability of patient care, and non-hospital space used in this manner is deemed to meet the requirements of a statute governing provision of services by a hospital consisting of more than one establishment. A hospital using non-hospital space in this manner must notify the KDHE as soon as practicable, but prior authorization is not required.

The section allows a medical care facility to permit healthcare providers authorized to provide healthcare services in Kansas to provide healthcare services at such medical facility without becoming a member of the facility's medical staff.

"Hospital" and "medical care facility" have the same meanings as in statutes governing hospital and related facility licensing, inspection, and regulation.

The section expires 120 calendar days after the expiration or termination of the state of disaster emergency proclamation issued by the Governor in response to the COVID-19 public health emergency, or any extension thereof.

*Temporary Emergency License (Section 19)*

The bill creates a section of law allowing the Board of Healing Arts to grant a temporary emergency license to practice any profession licensed, certified, registered, or regulated by the Board to an applicant with qualifications the Board deems sufficient to protect public safety and welfare, within the scope of professional practice authorized by the temporary emergency license, for the purpose of preparing for, responding to, or mitigating any effect of COVID-19.

The section expires on January 26, 2021.

*Temporary Licensure Measures for Additional Healthcare Providers (Section 20)*

The bill creates a section of law, notwithstanding any applicable law to the contrary, allowing physician assistants (PAs) to provide healthcare services appropriate to such provider's education, training, and experience within a designated healthcare facility at which the PA is employed or contracted to work as necessary to support the facility's response to the COVID-19 pandemic without a written agreement with a supervising physician, and the PA shall not be liable in any criminal prosecution, civil action, or administrative proceeding arising out of the lack of such written agreement.

The bill also allows advanced practice registered nurses (APRNs) and nurse anesthetists to provide healthcare services appropriate to each provider's education, training, and experience within a designated healthcare facility at which the provider is employed or contracted to work as necessary to support the facility's response to the COVID-19 pandemic without direction and supervision from a responsible physician. APRNs and nurse anesthetists providing health care under the provisions of this section shall not be liable in any criminal prosecution, civil action, or administrative proceeding arising out of a lack of direction and supervision from a responsible physician.

Licensed practical nurses (LPNs) are allowed to provide healthcare services appropriate to such provider's education, training, and experience within a designated healthcare facility at which the LPN is employed or contracted to work as necessary to support the facility's response to the COVID-19 pandemic without direction from a registered professional nurse (RN) and shall not be liable in any criminal prosecution, civil action, or administrative proceeding arising out of such LPN's lack of supervision from an RN. The bill allows an RN or LPN to order the collection of throat or nasopharyngeal swab specimens from individuals suspected of being infected by COVID-19 for purposes of testing.

The bill allows licensed pharmacists to provide care for routine health maintenance, chronic disease states, or similar conditions appropriate to such pharmacist's education, training, and experience within a designated healthcare facility at which the pharmacist is employed or contracted to work as necessary to support the facility's response to the COVID-19 pandemic without a collaborative practice agreement with a physician, and the pharmacist shall not be liable in any criminal prosecution, civil action, or administrative proceeding arising out of such pharmacist's lack of collaborative practice agreement with a physician.

The bill allows an RN or LPN who holds a license that is exempt, inactive, or has lapsed within the past five years from the effective date of the bill to provide healthcare services appropriate to the nurse's education, training, and experience and shall not be liable in any criminal prosecution, civil action, or administrative proceeding arising out of such nurse's exempt, inactive, or lapsed license.

The bill authorizes a designated healthcare facility, as necessary to support the facility's response to the COVID-19 pandemic, to:

- Allow a student who is enrolled in a program to become a licensed, registered, or certified healthcare professional to volunteer for work within such facility in roles that are appropriate to such student's education, training, and experience;
- Allow licensed, registered, or certified healthcare professional or emergency medical personnel serving in the military in any duty status to volunteer or work within such facility in roles that are appropriate to such military service member's education, training, and experience; and
- Allow a medical student, physical therapist, or emergency medical services provider to volunteer or work within such facility as a respiratory therapist extender under the supervision of a physician, respiratory therapist, or APRN. Such respiratory therapist extender will be allowed to assist respiratory therapists and other healthcare professionals in the operation of ventilators and related devices and provide other healthcare services appropriate to such provider's education, training, and experience, as determined by the facility in consultation with such facility's medical leadership.

The bill allows a healthcare professional licensed and in good standing in another state to practice such profession in the state of Kansas. A license that has been suspended or revoked or a licensee who is subject to pending license-related disciplinary action is not considered to be in good standing. Any license that is subject to limitation in another state is subject to the same limitation in the state of Kansas. Such healthcare professional shall not be liable in any criminal prosecution, civil action, or administrative proceeding arising out of such healthcare professional's lack of licensure in the state of Kansas.

The bill allows, subject to any terms and conditions established by the Secretary of Health and Environment, a designated healthcare facility to use a qualified volunteer or qualified personnel affiliated with any other designated healthcare facility as if such volunteer or personnel was affiliated with the facility using such volunteer or personnel.

The bill allows a healthcare professional to be licensed, certified, or registered or to have such license, certification, or registration reinstated within five years of lapse or renewed by the applicable licensing agency of the state of Kansas without satisfying the following conditions of licensure, certification, or registration:

- An examination, if such examination's administration has been canceled while the state of disaster emergency proclamation issued by the Governor in response to the COVID-19 pandemic is in effect;
- Fingerprinting;

- Continuing education; and
- Payment of a fee.

The bill provides that a professional certification in basic life support, advanced cardiac life support, or first aid shall remain valid if such professional certification is due to expire or be canceled while the state of disaster emergency proclamation issued by the Governor in response to the COVID-19 pandemic is in effect.

Fingerprinting of individuals is not required as a condition of licensure and certification for any hospital, adult care home, county medical care facility, or psychiatric hospital.

The bill states “appropriate to such professional’s education, training and experience,” or words of like effect, shall be determined by the designated healthcare facility in consultation with such facility’s medical leadership and defines “designated healthcare facility.”

The provisions of the section expire on January 26, 2021.

#### ***Critical Access Hospitals (Section 35)***

The bill amends the definition of “critical access hospital” in a statute governing rural health networks to add a provision stating that, prior to June 30, 2021, to the extent a critical access hospital determines is necessary to treat COVID-19 patients or to separate COVID-19 patients and non-COVID-19 patients, the hospital is not limited to 25 beds, and a facility with an approved swing bed agreement is not limited to a combined total of 25 extended care and acute care beds or limited to providing acute inpatient care for a period of time that does not exceed, on an annual average basis, 96 hours per patient.

#### ***Court Videoconferencing (Section 21)***

The bill amends a provision enacted in 2020 House Sub. for SB 102 to allow the Chief Justice of the Kansas Supreme Court to issue an order authorizing the use of two-way electronic audio-visual communication (videoconferencing) in any court proceeding, when the Chief Justice determines such action is necessary to secure the health and safety of court users, staff, and judicial officers, by removing language limiting application of this provision to periods during any state of disaster emergency under KEMA. [Note: Under continuing law, the provisions of this section expire on March 31, 2021.]

#### ***Sale of Alcoholic Liquor (Section 23)***

The bill amends the statute governing removal of unconsumed alcoholic liquor from premises of a club or drinking establishment to allow legal patrons to remove from the licensed premises one or more containers of alcoholic liquor not in the original container, subject to the following conditions:

- It must be legal for the licensee to sell the alcoholic liquor;

- Each container of alcoholic liquor must have been purchased by a patron on the licensed premises;
- The licensee or the licensee's employee must provide the patron with a dated receipt for the alcoholic liquor; and
- Before the container of alcoholic liquor is removed from the licensed premises, the licensee or the licensee's employee must place the container in a transparent bag that is sealed in a manner that makes it visibly apparent if the bag is subsequently tampered with or opened.

These provisions expire on January 26, 2021.

### ***Unemployment Compensation (Sections 24 through 28)***

The bill makes a number of temporary changes to the state unemployment compensation system in response to the COVID-19 pandemic.

The bill includes a policy statement that Kansas is committed to maintaining and strengthening access to its unemployment compensation system.

The bill provides that a claimant is not ineligible for benefits on the basis of not actively seeking work during a disaster emergency proclaimed by the Governor and in response to the spread of COVID-19 and the State has temporarily waived the work search requirement in compliance with the Families First Act.

The bill waives the waiting week requirement for new claims filed from April 5, 2020, through December 26, 2020, in accordance with the Families First Act and the CARES Act.

The bill requires employers to provide any notifications to individuals in the service of the employer as required by the Secretary of Labor pursuant to the Families First Act.

For calendar year 2021, the bill limits unemployment contribution rates for employers to the standard rate schedule and prohibits an additional solvency adjustment.

The bill provides that benefits paid as a result of employees being discharged by an employer directly impacted by COVID-19 in accordance with the Families First Act will not be charged to the account of the contributing employer.

Under the bill, payments of unemployment compensation that are wholly reimbursed to a reimbursing employer by the federal government shall be charged for the purpose of such reimbursement under the CARES Act.

The bill eliminates the prohibition of negative account employers participating in shared work plans, but provides that shared work plans may be approved only if the Secretary of Labor determines the contributing employer does not adversely impact the State's eligibility under Section 2108 of the CARES Act, which provides for federal reimbursement of certain shared work plan payments.

***Severability Clause (Section 36)***

The bill includes a severability provision, stating if any portion of the act or application thereof to any person or circumstance is declared unconstitutional or invalid, such invalidity shall not affect other portions that can be given effect without the invalid portion or application, and such other portions shall remain valid and enforceable.

***Effective Date***

The bill is effective upon publication in the *Kansas Register*.

VETOED

## EDUCATION

### **Education; Free ACT Exams; Concurrent and Dual Enrollment; Foster Care Report Card; Kansas Promise Scholarship Act; HB 2510**

**HB 2510** amends law related to the provision of free ACT exams for Kansas high school students, concurrent and dual enrollment for high school students, and the authority of healing arts school clinics to provide healing arts services. The bill also requires the creation of a foster care report card and enacts the Kansas Promise Scholarship Act. The bill also authorizes the sale of land by Kansas State University in Saline County.

#### ***Free ACT Exams***

The bill requires the Kansas State Board of Education (State Board) to provide the ACT college entrance exam, ACT WorkKeys assessments, and the pre-ACT at no charge to any person enrolled in any public or accredited nonpublic school in Kansas. Current law requires the State Board to provide those examinations at no charge to students enrolled in public schools.

The bill also requires the State Board to submit an annual report to the Senate Committee on Education and the House Committee on Education that includes aggregate exam and assessment data for all students who were provided the examinations and assessments by the State Board.

#### ***Concurrent Enrollment and Dual Enrollment***

The bill amends Kansas Challenge to Secondary School Students Act (Act) law related to concurrent and dual enrollment of high school students at postsecondary educational institutions.

#### ***Authority of School Districts***

The bill allows a school district, at the discretion of the local board of education, to pay tuition, fees, books, materials, and equipment for any high school student who is concurrently or dually enrolled at a postsecondary educational institution (postsecondary institution). The bill authorizes a local board of education to pay all or a portion of those costs. The bill requires any such payment to be paid directly to the postsecondary institution by the school district. Students or their families are required to pay any portion of the costs not covered by the school district. School districts are also authorized to provide transportation for concurrently or dually enrolled students.

The bill requires school districts to grant high school credit to concurrently or dually enrolled students who satisfactorily complete course work at a postsecondary institution.

The bill prohibits school districts from paying for technical education courses that are part of the Excel in Career Technical Education program (also known as SB 155 courses) administered by the Kansas Board of Regents (KBOR).

### *Student Eligibility and Requirements*

The bill amends the definition of “student” in the Act to require a student to have an individualized plan of study or an individualized education program. The new definition of student is a person:

- Enrolled in grades 10, 11, or 12 in a school district, or a gifted student enrolled in grades 9, 10, 11, or 12;
- Who has demonstrated the ability to benefit from participation in the regular curricula of a postsecondary institution;
- With an individualized plan of study or an individualized education program;
- Who has been authorized by the principal of the school attended to apply for enrollment at an eligible postsecondary institution; and
- Is accepted for enrollment at an eligible postsecondary institution.

The bill requires a student to remain in good standing at the postsecondary institution in which they are enrolled or show satisfactory progress as determined by their school district in order to remain eligible for participation.

### *Requirements on Postsecondary Educational Institutions*

The bill requires postsecondary institutions to notify a student or a student’s parent or guardian if the course in which a student is enrolled is not eligible for a systemwide transfer of college credit, as determined by KBOR.

### *Tuition Waiver for Foster Care Students*

The bill expands the Kansas Foster Child Educational Assistance Program to provide a tuition waiver for an eligible foster child who is concurrently or dually enrolled in a postsecondary institution. In addition, school districts are authorized to pay for any costs that are not waived, including for fees, books, materials, and equipment.

### *Reporting Requirements*

The bill requires each postsecondary institution that accepts students for concurrent or dual enrollment to submit a report to KBOR. The bill requires each report to include, but not be limited to, the following:

- The number of students from each school district enrolled in the postsecondary institution, including the number of students in foster care;

- The number of students who successfully complete the courses in which they are enrolled;
- The tuition rate charged for concurrently or dually enrolled students compared to the tuition rate charged regularly enrolled students; and
- The amount and portion of costs for concurrent and dual enrollment being paid by each school district.

KBOR is required to compile and prepare a summary report of the reports submitted by postsecondary institutions. The bill requires this summary report to be submitted to the House Committee on Education and Senate Committee on Education on or before February 15 of each year.

#### *Other Amendments*

The bill amends the definition of “accredited independent institution” in the Act to include only not-for-profit postsecondary institutions and to specify the institution must be accredited by a nationally recognized accrediting agency.

#### ***Authority of Healing Arts School Clinics***

The bill clarifies the authority of healing arts school clinics to provide healing arts services. The bill allows schools statutorily exempted from KBOR approval requirements to be exempted from the prohibition on the corporate practice of medicine. Current law requires that, for a school clinic to be exempted from the prohibition on the corporate practice of medicine, the school must be approved by KBOR.

The bill also allows off-site clinics owned or operated by a school in partnership with other providers to engage in the practice of healing arts.

#### ***Foster Care Report Card***

The bill requires the Kansas State Department of Education (KSDE) and the Department for Children and Families (DCF) to prepare an annual academic report card on educational outcome data regarding foster care students. The bill requires the following data for foster care students to be included in the academic report card:

- The graduation rate;
- The number and percentage promoted to the next grade level;
- The number and percentage suspended during the school year;
- The number and percentage expelled during the school year;

- State standardized assessment scores and the number and percentage meeting academic standards;
- The number enrolled in preschool-aged at-risk programs, the Kansas Preschool Pilot program, or other early childhood special education programs under the federal Individuals with Disabilities Education Act;
- The total number of foster care students in the state, how many are enrolled in school districts, and how many are enrolled in accredited nonpublic schools; and
- The number and percentage of foster youth participating in the mental health intervention team pilot program or similar mental health programs.

The bill also requires de-identified and disaggregated data on race and ethnicity for each of the required data sets. The bill requires the academic report card to be submitted to the House Committee on Education and the Senate Committee on Education on or before January 15 of each year.

### ***Kansas Promise Scholarship Act***

The bill establishes the Kansas Promise Scholarship Act (KPSA), which provides scholarships for students to attend an “eligible postsecondary educational institution.” The bill defines such an institution to include community or technical colleges established by law, the Washburn Institute of Technology, or any two-year associate degree program or technical certificate program offered by a private postsecondary educational institution that has its primary location in Kansas. The KPSA is administered by KBOR.

To be eligible for a scholarship, a student is required to:

- Be a Kansas resident;
- Be a graduate of a Kansas public or private secondary school or have obtained a high school equivalency certificate within the preceding 12 months. The bill also includes students who graduate out of state while one or both parents are residents of Kansas and members of the Kansas National Guard who are stationed in another state. The bill also includes students who were in foster care at any time while enrolled in any of the grades 6 through 12. The bill also includes students enrolled in grade 12 in any public or private secondary school in Kansas;
- Complete the application form established by KBOR;
- Enter into the scholarship agreement with the eligible postsecondary institution that stipulates the student will:
  - Be a full-time student and complete the required career and technical education program or associate degree program with coursework in an identified job field that corresponds to a baccalaureate degree program;

- Within six months of graduation, either work in Kansas for at least two years following completion of the program or enroll as a full-time student in a public or private postsecondary educational institution and, upon graduation, work in Kansas for at least two years;
- Maintain records and report to KBOR the fulfillment of requirements; and
- Agree to repay the scholarship received, plus interest, upon failure to perform as specified in the agreement; and
- Complete the application for federal student aid and either:
  - Enroll in an eligible postsecondary institution with coursework in an identified job field that corresponds to a baccalaureate degree program; or
  - Transfer to a public or private postsecondary institution that is primarily located in Kansas as a full-time student, and commence work in Kansas for at least two years following completion of the program.

The scholarship program is subject to appropriations that may not exceed \$10.0 million annually. The amount of a student's scholarship for each semester is the aggregate of the amount of tuition and related fees or costs of the eligible postsecondary institution minus the aggregate amount of all other aid awarded to the student. The bill specifies aid includes any financial assistance that would not require repayment. The bill does not prohibit a student enrolled in high school who received a postsecondary course credit from qualifying for the scholarship. To continue receiving the scholarship, the student must:

- Annually complete 100 hours of community service or be verified by the eligible postsecondary institution to be employed part-time;
- Maintain a cumulative grade point average of 2.0 or greater; and
- Satisfy other requirements specified in the agreement.

The scholarship conditions are satisfied when the student:

- Completes the requirements of the agreement;
- Fails to complete the educational requirements after making a best effort attempt;
- Cannot obtain and continue employment;
- Cannot satisfy the requirements due to a permanent physical disability; or
- Dies.

KBOR is required to adopt rules and regulations pertaining to:

- Application deadlines for the scholarship;

- Appeals process for denial or revocation of a scholarship;
- Guidelines for the transferability of a graduated student's credits from an eligible postsecondary institution to a state educational institution or a municipal university;
- Procedures for a student to record and report proof of community service hours;
- The terms, conditions, and requirements of the scholarship agreement between the KBOR and the student;
- Procedures for requesting and approving certain absences from an eligible postsecondary institution;
- Criteria for determining whether a student has fulfilled the employment and repayment requirements specified in the bill, including methods of repayment; and
- Criteria for determining whether special circumstances or good cause are present that prevent a student from completing the scholarship requirements.

KBOR is required to:

- Publicize the scholarship program by working with various community partners;
- Allocate funds to each postsecondary institution;
- Request information from each postsecondary institution;
- Collaborate annually with the Department of Commerce and Kansas business and industry to identify up to ten job fields that have the highest need for skilled employees;
- Designate scholarship-eligible career and technical programs and transfer education programs that correspond with the job fields and pathways;
- Ensure students fulfill the scholarship agreement; and
- Starting in January 2021, annually evaluate the program and report to the standing education committees of the House and Senate.

KBOR is authorized to transfer any repayment account to a loan servicer or collection agency. Moneys received would be credited to the State General Fund.

The KPSA sunsets on July 1, 2025.

***Kansas State University Land Sale***

The bill authorizes the sale of specified land by Kansas State University in Saline County.

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## FINANCIAL INSTITUTIONS

### **Kansas Economic Recovery Loan Deposit Program; Credit Union Field of Membership; Financial Institutions Privilege Tax; Senate Sub. for HB 2619**

**Senate Sub. for HB 2619** enacts law to establish the Kansas Economic Recovery Loan Deposit Program (Program); amends law governing linked deposit programs and related investment procedures; amends field-of-membership requirements placed on state-chartered credit unions to increase the permissible geographic area for a credit union's field of membership; and will permit national banking associations, state banks, trust companies, and savings and loan associations, for all taxable years commencing after December 31, 2021, to deduct from net income the net interest income received from qualified agricultural real estate loans and the net interest income received from single family residence loans to the extent such interest is included in the Kansas taxable income of a corporation.

### ***Kansas Economic Recovery Loan Deposit Program (New Sections 1-7; Section 9)***

#### *Program Citation (New Section 1)*

The bill designates sections 1 through 7 of the bill as the Kansas Economic Recovery Loan Deposit Program (Program) and further provides the Program shall be part of and supplemental to Article 42, Chapter 75 of the *Kansas Statutes Annotated*.

#### *Definitions (New Section 2)*

The bill defines terms including the following:

- “Economic recovery loan deposit” to mean an investment account placed by the Director of Investments under the provisions of Article 42, Chapter 75 of the *Kansas Statutes Annotated* with an eligible lending institution for the purpose of carrying out the intent of the Program;
- “Economic recovery loan deposit loan” or “loan” to mean a loan made by an eligible lending institution to an eligible borrower from the eligible lending institution's economic recovery loan deposit as part of the Program;
- “Economic recovery loan deposit program” or “program” to mean a state-administered program in which eligible lenders are charged less than the market rate of interest and eligible borrowers receive a reduction in interest charged on a loan in the amount of the deposit;
- “Eligible borrower” to mean any individual or entity operating a business primarily for commercial or agricultural purposes and is not an individual obtaining a loan primarily for personal, family, or household purposes; and
- “Eligible lending institution” to mean a financial institution that is:

- A bank, as defined in KSA 75-4201, that agrees to participate in the Program and is eligible to be a depository of state funds;
- A credit union, as defined in the State Credit Union Code, that agrees to participate in the Program and provides securities acceptable to the Pooled Money Investment Board (PMIB) pursuant to Article 42, Chapter 75 of the *Kansas Statutes Annotated*; or
- An institution of the Farm Credit System organized under the Federal Farm Credit Act of 1971, as amended, that agrees to participate in the Program and provides securities acceptable to the PMIB pursuant to Article 42, Chapter 75.

The bill also defines the terms “director of investments” and “economic recovery loan deposit loan package.”

#### *Program Administration and Purpose (New Section 3)*

The bill authorizes the State Treasurer to administer the Program and states the Program shall be for the purpose of providing incentives for the making of business loans. The bill further specifies the total aggregate amount of loans made under the Program must not exceed \$60.0 million of unencumbered funds pursuant to Article 42 of Chapter 75.

**Rules and regulations.** The bill requires the State Treasurer to adopt all rules and regulations necessary to enact and administer the provisions of the Program. Such rules and regulations must be adopted no later than February 1, 2021.

**Annual report.** The bill requires the State Treasurer to submit an annual report to the Legislature and the Governor identifying the eligible lending institutions participating in the Program and the eligible borrowers who have received an economic recovery loan deposit loan. The bill also requires the annual report to provide the aggregate amount of moneys loaned and the amount of moneys still available for loan, if any; the report is due on or before January 1, 2022, and each January 1 thereafter.

#### *Program Loan Package Requirements and Loan Information (New Section 4)*

The bill authorizes the State Treasurer to disseminate information and to provide economic recovery loan deposit loan packages (loan packages) to the eligible lending institutions.

**Eligible borrowers, applications, loan limitations.** The bill provides the following requirements and other criteria for participation in the Program:

- The loan package must be completed by the eligible borrower before being forwarded to the lending institution for consideration;
- An eligible lending institution that agrees to receive an economic recovery loan deposit must accept and review applications for loans from eligible borrowers;

- The lending institution must apply all usual lending standards to determine the credit worthiness of eligible borrowers;
- No single economic recovery loan deposit loan can exceed \$250,000;
- Only one economic recovery loan deposit loan can be made and be outstanding at any one time to any eligible borrower; and
- No loan may be amortized for a period of more than ten years.

**Certification and loan approval.** The bill requires an eligible borrower to certify on the loan application that the reduced rate loan will be used exclusively for the expenses involved in operating the borrower's business. The eligible lending institution is permitted to approve or reject a loan package based on the institution's evaluation of the eligible borrowers included in the package, the amount of the individual loan in the package, and other appropriate considerations. The eligible lending institution is required to forward to the State Treasurer an approved loan package in the prescribed form and manner. The bill requires the package to include a certification by the applicant that such applicant is an eligible borrower.

*Evaluation of the Economic Recovery Loan Deposit Loan Package; Interest and Market Rates; Loan Agreement (New Section 5)*

The bill permits the State Treasurer to either accept or reject the loan package based on the State Treasurer's evaluation of whether the loan meets the Program requirements. The bill further provides, if sufficient funds are not available for a loan deposit, then the applications may be considered in the order received when funds are once again available, subject to a review by the lending institution.

Upon acceptance of a loan package, the State Treasurer is required to certify to the Director of Investments (Director) the required amount for the package and the Director is required to place an economic recovery loan deposit in the amount certified with the eligible lending institution at an interest rate that is 2.0 percent below the market rate provided in KSA 75-4237 (a floating rate). The bill requires such rate to be recalculated on the first business day of January each year using the market rate then in effect. The bill further specifies the minimum interest rate (or floor) would be 0.25 percent if the market rate is below 2.25 percent. The bill permits the State Treasurer, when necessary, to request the Director place an economic recovery loan deposit with the eligible lending institution prior to acceptance of a loan package.

An eligible lending institution is required to enter into an economic recovery loan deposit agreement with the State Treasurer. Such agreement will include requirements necessary to implement the purposes of the Program. The bill specifies the requirements must include an agreement by the eligible lending institution to lend an amount equal to the loan deposit to eligible borrowers at an interest rate that is not more than 3.0 percent greater than the interest rate made available to the lending institution (effectively capping the interest rate spread at 3.0 percent). The borrower's rate must be recalculated annually. The bill provides the loan agreement will also include provisions for the loan deposit to be placed for an annually renewable one-year maturity up to a period of ten years. The bill also requires the agreement to include provisions for the reduction of the loan deposit in an amount equal to any payment of loan principal by the eligible borrower.

*Funding of the Loan by the Lending Institution (New Section 6)*

The bill will require, upon placement of a loan deposit with an eligible lending institution, the institution to fund the loan to each approved eligible borrower listed in the loan package in accordance with the agreement between the institution and the State Treasurer. The bill requires the loan to be at the rate established in the agreement and established pursuant to requirements of this bill.

*Liability for Default or Delay in Payments (New Section 7)*

The bill also states the State and the State Treasurer shall not be liable to any eligible lending institution in any manner for payment of the principal or interest on any economic recovery loan deposit loan to an eligible borrower. The bill further states any delay in payments or default on the part of the eligible borrower does not in any manner affect the economic recovery loan deposit agreement between the eligible lending institution and the State Treasurer.

*Amendments to Linked Deposit Loan Program Law (Section 9)*

The bill amends law governing the investment of state moneys, which also includes previously authorized linked deposit programs, to add loan deposits made under the Program and applicable interest rates established by the bill.

***Field of Membership—Credit Unions (Section 8)***

The bill amends one of three criteria (occupation, association, and geographic) associated with defining field of membership for state-chartered credit unions in the State Credit Union Code (Code). Continuing law requires credit union members to be linked by one of three fields of membership.

Under current law, a geographic area is permitted to include:

- A single political jurisdiction, or multiple contiguous political jurisdictions, until the aggregate total of the population of the geographic area reaches 500,000; or
- If the headquarters of the credit union is located within a metropolitan statistical area (MSA) of more than one county, a different maximum population limit determined by a formula applies:
  - Multiply the population of the most populous MSA within Kansas (*i.e.*, the population of the Kansas City MSA counties within Kansas) by the fraction having 1.0 million as the numerator and 750,000 as the denominator. [*Note:* Current population numbers are those of the adjusted federal census information presented to the Legislature by the Secretary of State.]

The bill modifies the above criteria to:

- Increase the permitted maximum for multiple contiguous political jurisdictions for an aggregate of the total population from 500,000 to 2.5 million, as determined by official state population figures, or any portion thereof, which are identical to the decennial census data from the enumeration conducted by the U.S. Census Bureau; and
- Remove language that separately applied to any credit union with headquarters located within an MSA of more than one county (allowed for a different maximum population limit).

The bill also modifies a requirement that provides, from and after July 1, 2008, no geographic area shall consist of any congressional district or the entire state of Kansas to instead state no geographic area shall consist of the entire state of Kansas.

The bill removes definitions within the Code for “MSA,” “population data” (the language of which is moved into provisions regarding the permitted maximum population in a field of membership), and “overt act.” Some of the requirements within the definitions had been specific to operations of credit unions, including branch locations, construction of new buildings, and membership of occupation or association groups on or before either February 1, 2008, or June 30, 2008.

#### ***Kansas Financial Institutions Privilege Tax—Definitions (Section 10)***

The bill permits a deduction from net income for financial institutions subject to the Kansas Financial Institutions Privilege Tax (privilege tax). The bill creates definitions for various terms and also creates a calculation methodology for “net interest income received from qualified agricultural real estate loans attributed to Kansas” and for “net interest income from single family residence loans attributed to Kansas” as follows:

- “Interest” to mean interest on indebtedness attributed to Kansas and incurred in the ordinary course of the active conduct of any business and interest on indebtedness incurred that is secured by a single family residence;
- “Qualified agricultural real estate” to mean real property which is substantially used for the production of one of more agricultural products;
- “Net interest income received from qualified agricultural real estate loans attributed to Kansas” to mean the product of the ratio of the interest income earned on qualified agricultural real estate loans over total interest income earned, in relation to the net income of the national banking association, state bank, trust company, or savings and loan association without regard to this deduction;
- “Net interest income received from single family residence loans attributed to Kansas” to mean the product of the ratio of the interest income earned on single family residence loans over total interest income earned, in relation to the net income of the national banking association, state bank, trust company, or savings and loan association without regard to this deduction; and

- “Single family residence” to mean a residence that is:
  - The principal residence of its occupant;
  - Located in Kansas, in a rural area as defined by the U.S. Department of Agriculture that is not within a MSA and has a population of 2,500 or less as determined by the most recent census for which data is available; and
  - Purchased or improved with the proceeds of the loan.

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## OPEN RECORDS

### Open Records—Extension of Exceptions; Scrap Metal—Vehicle Photograph; Senate Sub. for HB 2137

**Senate Sub. for HB 2137** amends the Scrap Metal Theft Reduction Act to remove the requirement that scrap metal dealers photograph the vehicle in which a junk vehicle or other regulated scrap metal property is delivered.

The bill also continues in existence the following exceptions to the Kansas Open Records Act:

- KSA 9-1810(b), concerning the Kansas Bank Commissioner's informal agreements with banks or trust companies;
- KSA 38-2310(c), concerning law enforcement records identifying victims of certain crimes;
- KSA 40-223j(c), concerning insurance actuarial reports used for counseling and discipline;
- KSA 40-409(j)(2), concerning records related to certain insurance policy valuations;
- KSA 40-6007(a), concerning documents related to insurer's own risk and solvency assessments;
- KSA 45-221(a)(52), concerning public records identifying the home address of certain officials;
- KSA 46-1129, concerning survey responses to audits conducted under the Legislative Post Audit Act;
- KSA 50-6a11(f), concerning tobacco sales data related to the Master Settlement Agreement;
- KSA 59-29a22(b)(10), concerning treatment records in the possession of a treatment facility; and
- KSA 65-6741, concerning court records related to unlawful abortions.

## STATE GOVERNMENT

### **Agency Duties—Insurance Department; University of Kansas Medical Center; Department of Health and Environment; Wichita State University; HB 2246**

**HB 2246** amends and enacts new law pertaining to the oversight, regulation, programming, and authority of various state agencies. Among the agencies and programs addressed by the bill are:

- The Commissioner of Insurance and Kansas Insurance Department (amendments and new supplemental law, including on appointment of the Securities Commissioner);
- Kansas Department of Health and Environment (the Health Care Access Improvement Program);
- The University of Kansas Medical Center (Cancer Center Research Account); and
- Wichita State University (bonding authority).

The bill takes effect upon publication in the *Kansas Register*.

### ***Commissioner of Insurance and Kansas Insurance Department Regulation***

The bill amends and enacts new law supplemental to the Insurance Code and amends law governing the appointment of the Securities Commissioner by the Commissioner of Insurance (Commissioner). Among these changes, the bill:

- Creates law and amends law to allow a reciprocal to convert to a Kansas mutual insurance company in accordance with terms of a conversion plan filed with and approved by the Commissioner;
- Amends penalty provisions governing excess lines coverage and taxation;
- Amends the effective date specified for the risk-based capital (RBC) instructions for property and casualty companies and for life insurance companies;
- Amends provisions of the Long-term Care (LTC) Insurance Act to to allow regulation of LTC policies providing coverage for less than 12 months; and
- Amends law governing the Office of the Securities Commissioner and the appointment and removal authority assigned to the Commissioner of Insurance.

*Reciprocals and Conversion to Mutual Insurance Companies [New Section 1]*

The bill creates law and amends law in the Insurance Code to allow a reciprocal to convert to a Kansas mutual insurance company in accordance with terms of a conversion plan filed with and approved by the Commissioner. A reciprocal, as defined in KSA 40-1623, is an aggregation of subscribers under a common name.

The bill permits the Commissioner to establish reasonable requirements and procedures for the submission and approval of a conversion plan. The bill outlines items that must be included in the conversion plan:

- A provision for converting the existing subscriber interests in the reciprocal into policyholder interests in the resulting mutual insurance company, so that each policyholder's interest in the mutual insurance company is fairly proportionate to such subscriber's interest in the reciprocal;
- A provision amending the existing subscriber's agreement to articles of incorporation that comply with provisions in the Insurance Code governing the authority for formation, votes of members, and charter filing requirements for mutual insurance companies;
- A proposed copy of the articles of incorporation;
- Proof of the approval or adoption of the conversion plan by not less than two-thirds of the subscriber interests entitled to vote;
- A transition plan for the change of governance of the reciprocal from an attorney-in-fact to a board of directors and officers that is governed by Kansas law applicable to mutual insurance companies; and
- Any other information required by the Commissioner.

The bill provides the Commissioner shall approve the conversion plan if the Commissioner finds that the proposed conversion will not:

- Be detrimental to the interests of the reciprocal's subscribers;
- Be detrimental to the interests of the state of Kansas; and
- Render the insurer incapable of fulfilling its contractual obligations.

Upon the approval of a conversion plan, the Commissioner is required to issue a new or amended certificate of authority, which will be deemed the final act of conversion; at such time, the reciprocal concurrently will become a mutual insurance company.

Mutual insurance companies created under the provisions of this bill are required to comply with all statutes in the Insurance Code, including Articles 12 and 40, that are applicable to mutual insurance companies.

The bill amends law allowing a mutual insurance company opting to convert to a reciprocal to request a hearing within 15 days of the Commissioner's approval or denial of the conversion plan, under the Kansas Administrative Procedure Act, to grant this same ability to a reciprocal seeking to convert to a mutual insurance company.

The law created in the bill is made supplemental to Article 16 in Chapter 40 (Insurance Code), which governs reciprocals or interinsurance contracts.

*Excess Lines Coverage [Section 2]*

The bill amends provisions in the Insurance Code governing excess lines coverage and taxation to allow, rather than require, the Commissioner to collect a penalty from any licensee or individual who fails, refuses, or neglects to transmit the required affidavit or statement for surplus lines insurance or fails to pay the imposed tax for surplus lines insurance. The bill also changes the amount of the penalty from double the amount of tax to up to double the amount.

*Risk-based Capital (RBC) Instructions [Section 3]*

The bill amends the effective date specified in the Insurance Code for the RBC instructions promulgated by the National Association of Insurance Commissioners for property and casualty companies and for life insurance companies. The bill updates the effective date on the RBC instructions from December 31, 2018, to December 31, 2019.

*Long-term Care Insurance Act (LTC)—Duration of Policies [Section 6]*

The bill amends provisions of the Long-term Care Insurance Act to modify the definition of "long-term care insurance" and to allow the Kansas Insurance Department (Department) to regulate LTC policies that provide coverage for less than 12 months. Prior law required LTC policies to have a duration of at least 12 consecutive months.

*Appointment and Removal of the Securities Commissioner [Section 7]*

The bill amends law governing the Office of the Securities Commissioner and the appointment and removal authority assigned to the Commissioner of Insurance.

Under prior law, the Insurance Commissioner was permitted to remove the Securities Commissioner for official misconduct. The bill removes this authority and instead requires the Securities Commissioner to serve at the pleasure of the Insurance Commissioner. Under continuing law, the Securities Commissioner would be subject to the confirmation of the Senate.

The bill removes provisions pertaining to the initial appointment of the Securities Commissioner by the Insurance Commissioner. The bill also removes provisions that would have required the Securities Commissioner to serve, subject to Senate confirmation, a four-year term to run concurrently with the term of the Insurance Commissioner.

[Note: Law enacted in 2017 consolidated the Office of the Securities Commissioner, a stand-alone agency, into the Department as a division within the Department and changed the

appointment authority for the Securities Commissioner from the Governor to the Insurance Commissioner.]

***University of Kansas Medical Center—Cancer Center Research Grant [New Section 8]***

The bill creates in the State Treasury the Cancer Research and Public Information Trust Fund to enhance research at the University of Kansas Cancer Center. It creates a demand transfer of \$10.0 million from the State General Fund to the Cancer Research and Public Information Trust Fund of the University of Kansas Medical Center (KUMC) beginning in fiscal year (FY) 2022. The bill requires the Director of KUMC to submit a report to the Legislature detailing the manner that such appropriated moneys are to be used to enhance cancer research, cancer education, and outreach programs.

***Kansas Department of Health and Environment—Healthcare Access Improvement Program [Section 9]***

The bill amends law concerning the hospital provider assessment known as the Health Care Access Improvement Program (HCAIP). The bill makes the following changes to the hospital provider assessment:

- The annual assessment on services imposed on each provider will be an amount not less than 1.83 percent of each hospital's net inpatient operating revenue and not greater than 3.0 percent of each hospital's net inpatient and outpatient operating revenue. This will apply to hospitals with a complete 12-month fiscal year; and
- The amount of the annual provider tax will be determined by the healthcare access improvement panel in consultation with the Kansas Department of Health and Environment.

In addition, technical changes were made to replace references to 80(l) of chapter 68 of the 2019 Session Laws of Kansas with section 1 of House Bill No. 2168.

***Wichita State University—Bonding Authority [Section 10]***

The bill provides Wichita State University authority to secure bonds from the Kansas Development Finance Authority for up to \$25.0 million through FY 2021 for a new business school.

## TAXATION

### **Notice and Hearing Requirements; Property Valuation; Certain Filing and Payment Deadlines; Taxpayer Protection Act; HB 2702**

**HB 2702** establishes new notice and public hearing requirements for certain taxing subdivisions, prohibits certain real property valuation increases, provides a one-time delay in the deadline for payment of property taxes, enacts the Taxpayer Protection Act, extends certain income and privilege tax filing and payment deadlines, authorizes county treasurers to establish partial payments and payment plans for all property taxes, and provides for county discretion in handling *de minimis* property tax penalty charges.

The bill is in effect upon publication in the *Kansas Register*.

#### ***Notice and Public Hearing Requirements***

The bill establishes, beginning in 2021, new notice and public hearing requirements for certain taxing subdivisions prior to property tax increases above a revenue-neutral rate. The bill does not apply to school districts or to any taxing subdivisions receiving less than \$5,000 annually in property taxes.

On or before June 15 of each year, beginning in 2021, the bill requires county clerks to submit the revenue-neutral rate to all other taxing subdivisions at the same time estimated assessed valuation information is provided. "Revenue-neutral rate" is defined to mean the tax rate for the current tax year that generates the same property tax revenue as levied the previous tax year using the current tax year's total assessed valuation. The bill requires the Director of Accounts and Reports to modify budget information forms to show the revenue-neutral rate.

The taxing subdivisions affected by the bill are prohibited from levying rates that exceed the revenue-neutral rates unless the taxing subdivisions have published notice on their websites of the proposed intent to exceed such rates and announcing a public hearing on such action. On or before July 15, the bill also requires governing bodies to notify county clerks of their intent to exceed revenue-neutral rates. County clerks subsequently are required to notify each taxpayer with property in taxing subdivisions seeking to exceed such rates of the public hearings at least ten days before the hearings. The bill requires county clerks to send consolidated notifications for all taxing subdivisions relevant to a parcel of property *via* mail unless taxpayers and county clerks both have consented to service by electronic means. The bill requires all costs associated with notification requirements to be borne by taxing subdivisions seeking to exceed their revenue-neutral rates, with payment for such costs due to county clerks by December 31.

The bill requires, at public hearings required to be held on or before September 10, governing bodies to provide interested taxpayers an opportunity to present oral testimony within reasonable time limits and without unreasonable restriction on the number of individuals allowed to make public comment. At the conclusion of the public hearings, the bill requires a majority vote of governing bodies adopting resolutions or ordinances that approve exceeding the revenue-neutral rates, prior to adoption of proposed budgets resulting in a tax rate that exceeds the revenue-neutral rate.

The public hearings can be conducted in conjunction with other required budget hearings of the taxing subdivisions. Governing bodies taking such action are required to submit on or before September 20 to each county clerk the amount of property taxes to be levied.

Taxing subdivisions not complying with the notification and public hearing requirements outlined in the bill are required to refund to taxpayers any over-collected property taxes.

The bill also repeals, beginning in 2021, the current property tax lid law applicable to cities and counties (KSA 79-2925c).

### ***Prohibited Valuation Increases***

The bill prohibits an increase in the appraised valuation of real property solely as a result of normal repair, replacement, or maintenance of existing improvements on the property.

### ***Property Tax Payment Delay***

The bill prohibits interest from accruing on unpaid property tax for tax year 2019 from May 10, 2020, through August 10, 2020. The tax is not considered delinquent for that time and counties are required to waive any fees, expenses, and costs related to delinquent property tax collection charged to taxpayers prior to August 11, 2020.

The bill also delays, for tax year 2019 only, the preparation of a list of real estate subject to sale due to delinquent taxes until after August 10, 2020, and the publication deadline of such list is delayed until September 1, 2020. Real estate sales of property as a result of delinquent taxes in 2020 otherwise scheduled to occur on the first Tuesday of September will be scheduled to occur on or before the fourth Monday of October.

### ***Taxpayer Protection Act***

The bill, on and after January 1, 2021, requires paid tax return preparers to sign any income tax return prepared by or substantially prepared by the preparer and to include the preparer's federal preparer tax identification number on any such return. Any failure to do so subjects the preparer to a civil penalty of \$50 per return with a maximum of \$25,000 in civil penalties per preparer per year. Any civil penalties assessed can be appealed pursuant to the Kansas Administrative Procedure Act. Any penalties collected are deposited in the State General Fund.

The bill authorizes the Secretary of Revenue (Secretary) to enjoin any person from acting as a paid tax preparer by seeking a temporary or permanent order from a court of competent jurisdiction enjoining such conduct. Under the bill, an injunction can be issued by a court if the preparer has engaged in any of the following conduct:

- Prepared a return that understates the taxpayer's liability due to an "unreasonable position," as that term is defined in the Internal Revenue Code;
- Prepared a return that understates the taxpayer's liability due to "willful or reckless conduct," as that term is defined in the Internal Revenue Code;
- Fails to, when required, furnish a signed copy of the return including the preparer's federal preparer tax identification number, retain a copy of the return, or be diligent in determining eligibility for tax benefits;

- Negotiates a check issued to the taxpayer by the Kansas Department of Revenue (KDOR) without the permission of the taxpayer;
- Engages in any conduct subject to any criminal penalty provided for in Chapter 79 of the *Kansas Statutes Annotated* or amendments thereto;
- Misrepresents the preparer's education, experience, or eligibility to practice tax preparation;
- Guarantees the payment of any tax refund or the allowance of any tax credit; or
- Engages in any other fraudulent or deceptive conduct that substantially interferes with proper administration of Kansas tax laws.

The bill allows the Secretary to seek the assistance of the Attorney General or the Attorney General's designee in pursuing such injunctions, and the Secretary is required to publish an annual report concerning such injunctions on the website of the Kansas Department of Revenue.

The bill provides that any person, whether or not a resident of Kansas, submits to the jurisdiction of the courts of the State of Kansas for purposes of such injunctions by engaging in any conduct that could give rise to a cause of action under the Taxpayer Protection Act. The bill provides that legal actions brought under the Act shall be brought in the district court of Shawnee County. The Secretary is permitted to enter into consent judgments with respect to violations of the Act in lieu of actions seeking injunctions.

The bill authorizes the Secretary to promulgate rules and regulations necessary to carry out the provisions of the Taxpayer Protection Act.

### ***Filing and Payment Extension***

The bill extends, for tax year 2019, the deadline for filing income and privilege tax returns otherwise due April 15, 2020, through July 15, 2020, to July 15, 2020. The bill also prohibits the imposition of penalty or interest associated with such returns if the liability is paid on or before July 15, 2020.

### ***Property Tax Payment Plans and Partial Payments***

The bill authorizes county treasurers to establish partial payments and payment plans for all property taxes. Current law grants treasurers authority to accept partial payment for delinquent property taxes.

### ***County Discretion Concerning De Minimis Property Tax Penalty Charges***

The bill provides that counties have discretion in refunding, crediting, or retaining any penalties and interest charged to taxpayers between May 11, 2020, and the effective date of the bill that are rendered void by this act, up to \$25.

## UTILITIES

### **Kansas Video Competition Act—Amendments; Senate Sub. for HB 2018**

**Senate Sub. for HB 2018** amends the Video Competition Act (Act) to prohibit municipalities from imposing additional requirements for the deployment of micro wireless facilities in the public right-of-way and to allow a municipality to require compliance with certain standards.

#### ***Definitions***

The bill adds the following definitions to the Act:

- “Communications service” means information service or telecommunications service as defined in 47 U.S.C § 153; and
- “Micro wireless facility” means equipment at a fixed location that is:
  - Installed on cables that are owned and operated by a video service provider between utility poles, as defined in KSA 66-2019;
  - Used to provide communications services; and
  - Not larger in dimensions than 24 inches in length, 15 inches in width, and 12 inches in height, and does not have any associated exterior antenna longer than 11½ inches.

The definition of the term “video service” is amended to specify the term will not include any video programming provided by a commercial mobile service provider, as defined in 47 U.S.C § 332(d), unless such programming is determined by the Federal Communications Commission to be cable service.

#### ***Changes to Prohibited Activities Under the Act***

The bill clarifies which activities a municipality, defined as a city or county under the Act, is prohibited from engaging in regarding the holder of a state-issued video service authorization, and also prohibits a municipality from:

- Imposing any fee, tax, or charge other than any applicable federal and state taxes or the Video Service Provider Fee found in KSA 2019 Supp. 12-2024 [Note: The bill removes similar language in law that addresses gross tax receipts and fees associated with the Act.];
- Requiring the holder of a state-issued video service authorization to obtain any additional authorization or license for the provision of communications service over a holder’s network; and
- Requiring a video service provider to make an application or pay any fee, license, tax, or rent for the installation, placement, maintenance, operation, or replacement of a micro wireless facility.

### ***Compliance with Certain Standards for Deployment***

The bill authorizes a municipality to require the holder of a state-issued video service authorization to comply with the National Electrical Safety Code and all industry-recognized engineering safety standards.

### ***Clarifications***

The bill clarifies that nothing in the Act prohibits a municipality from assessing the Video Service Provider Fee or rates or enforcing any regulations pursuant to law relating to wireless infrastructure siting found in KSA 66-2019.

The bill also clarifies nothing in the bill should be construed to prohibit a cooperative or the owner of a utility pole from setting rates, fees, terms, and conditions of any pole attachment agreement with an authorized video service provider.

The bill amends a provision in the Act governing the requirements of an application for a state-issued video service authorization to add taxes to the list of items with which an applicant must comply.

### **Utility Rates—Income Tax Exemption, Contract Rates, and Discount Rates; Senate Sub. for HB 2585**

**Senate Sub. for HB 2585** creates and amends law relating to a tax exemption for the tracking and collection of state and federal income tax by certain public utilities and creates law related to the authority of the Kansas Corporation Commission (KCC) to regulate electric public utility rates to allow contract and discounted rates for certain facilities, as specified below. The KCC is authorized to approve such rates notwithstanding provisions governing its power to require utilities to establish just and reasonable rates to maintain efficient and sufficient electric service and to prohibit variations from established rate schedules.

#### ***Income Tax Exemption***

The bill exempts the following utilities from Kansas income tax:

- Any utility that is a cooperative, as defined in law, or owned by one or more cooperatives; and
- For tax years ending on or after January 1, 2021, every electric and natural gas public utility, as defined in law, that is subject to rate regulation by the KCC.

The bill prohibits electric and natural gas public utilities subject to rate regulation, not including cooperatives or utilities owned by one or more cooperatives, from being included in a consolidated or unitary combined return, or to collect income tax as a component of retail rates.

### *Tracking Changes to Income Tax Collection*

The bill requires a public utility, as defined in KSA 66-104, that includes expenses related to income taxes as a component of its retail rates to track and defer into a regulatory asset or liability, as appropriate, any overcollection or undercollection of income tax expenses if the income tax rates assessed on a utility are adjusted as a result of any changes in state or federal law.

### *Application for New Rates*

The bill requires a utility to file an application for new retail rates reflecting adjusted income tax rates with the KCC within 60 days of enactment of such a change in state or federal law if the adjustment results in an overcollection or undercollection of income tax expenses that is equal to or exceeds 0.25 percent of a utility's KCC-approved base revenue level from the utility's most recent rate proceeding. The utility is required to refund or collect the tracked amounts from their retail customers in a manner approved by the KCC.

### *KCC Order*

The KCC is required to issue an order addressing an application for adjusted retail rates due to a change in income tax expenses within 120 days. The bill requires the order to, if requested by the utility, give due consideration to the common interests of the utility and its customers, including, but not limited to, the use of a two-year implementation of current period rate changes to maintain the credit quality of the utility by ensuring that any such change in rates would not cause the utility's credit metrics that are traditionally considered by credit rating agencies to deteriorate to a level that could impair the utility's current credit rating.

If a retail rate change to address adjusted income tax expense is implemented over a period of time, the utility is required to track and defer any overcollection or undercollection of income tax expenses as a regulatory liability or asset, as appropriate, that would accrue interest at the utility's weighted cost of capital, as determined by the KCC in the utility's most recent general rate proceeding, and refund or collect the balance in the next full general rate proceeding.

If a utility has a full general rate case pending or has notified the KCC of its intention to file such an application, at the time any adjusted income tax rates become effective, the bill allows the KCC to issue an order finding that such adjusted income tax rates should not be reflected in retail rates until a utility's new retail rates become effective following its general rate proceeding. The bill requires the utility to demonstrate the public interest would be promoted by excluding adjusted income tax rates from its retail rates.

### *Full Rate Proceeding Clarification*

The bill clarifies that a filing resulting from adjusted income tax rates does not require the utility to file a full general rate case or require the utility to update any component of retail rates other than the income tax expense component. The bill provides that rate updates resulting from changes in income tax expenses are not considered a violation of any existing rate moratorium agreement.

### *Excess Accumulated Deferred Income Tax Balances*

The bill requires excess accumulated deferred income tax balances resulting from income taxes adjusted due to changes in state or federal law to remain unamortized on the utility's books of account until new retail rates from its next full general rate proceeding after the adjusted income tax rates take effect, at which time such balances must be amortized and reflected in retail rates.

If requested by the utility, excess accumulated deferred income tax balances resulting from changes in state law effective January 2021 will be amortized into retail rates over a period of not less than 30 years by order of the KCC.

Excess accumulated deferred income tax balances resulting from any other changes in state or federal law are amortized into retail rates by order of the KCC in a manner consistent with requirements of state and federal tax law and relevant regulations and in a manner that will not impair the utility's credit rating.

### *Municipal and Cooperative Utilities*

The bill clarifies that provisions related to adjustments for state or federal income tax expenses will not apply to municipal electric or natural gas utilities or to a cooperative.

### *Definitions*

The bill defines "overcollection or undercollection of income tax expense" as the portion of utility revenue representing the difference between the cost of service as approved by the KCC in the utility's most recent base rate proceeding and the cost of service that would have resulted had the provision for state or federal income taxes been based upon the adjusted corporate income tax rate. The bill specifies that "overcollection or undercollection of income tax expense" does not include the effects of accumulated deferred income taxes or excess accumulated deferred income taxes.

### ***Contract and Discounted Utility Rates***

#### *Contract Rates Not Based on Cost of Service to Facility*

The bill allows the KCC to approve a contract rate, outside a general rate proceeding, that is not based on the electric public utility's cost of service for a facility, if the KCC:

- Determines such facility would not continue operations, or continue operations that had previously been suspended within the state, and the rate is in the interest of the state based on:
  - The interests of the customers of the utility serving the facility;
  - An evaluation of the incremental cost to serve the facility; and
  - The interests of the citizens of the state generally in promoting economic development, retaining the tax base, keeping employment opportunities in

the state, and other benefits created by approval of the contract rate, as determined by the KCC; and

- Allocates the reduced revenues from the contract rate (as determined by a comparison of the contract rate to the revenues that would have been generated at the retail rate the facility would have paid without such contract rate) to the utility's other non-contract customers through a uniform percentage adjustment. The bill requires the reduced revenues to be applied in the base rates of all customer classes, except the base rates for service provided to customers under any approved contract rate, in each general rate proceeding involving the utility serving the facility.

#### *Contract Rates Based on Incremental Cost of Service to a Facility*

The bill allows the KCC to approve a contract rate, outside a general rate proceeding, that is based on the utility's incremental cost of service for a facility, if the KCC:

- Determines the facility would not commence or expand operations in the state without a contract rate;
- Determines the contract rate recovers the incremental cost of providing service to the facility and is in the best interest of the state based on:
  - The interests of the customers of the utility serving the facility;
  - The incremental cost of serving the facility; and
  - The interests of the citizens of the state generally in promoting economic development, expanding the tax base, increasing employment in the state, and other benefits created by approval of the contract rate, as determined by the KCC; and
- Uses the reduction in revenues that result from any contract rate approved by the KCC pursuant to the bill during the rate's effective period for the purposes of determining the utility's revenue requirement in each general rate proceeding concluding after July 1, 2020.

#### *Terms and Renewal*

The bill specifies the KCC may approve each type of contract rate for a term of up to ten years, with the ability to renew such rates, upon the utility's application for reapproval. The KCC does not have the authority to modify or eliminate any approved contract rate during the specified term.

#### *Effect on Prior Contract Rates*

The provisions of the bill do not affect, or establish standards for approval of, any contract rates approved by the KCC prior to and in effect on July 1, 2020, and do not affect or

diminish the KCC's general ratemaking authority to approve just and reasonable contract rates prior to July 1, 2020.

### *Discounted Rates*

The bill authorizes the KCC to approve the implementation of economic development rate schedules providing discounts from standard rates for electric service for new or expanded facilities of industrial or commercial customers that are not in the business of selling or providing goods or services directly to the general public.

### *Eligibility*

To be eligible for discounted rates, the industrial or commercial customer is required to:

- Have incentives from one or more local, regional, state, or federal economic development agencies to locate new or expanded facilities in the utility's certified service territory;
- Qualify for service under the utility's nonresidential and non-lighting rate schedules for a new or expanded facility; and
- Not receive the discount together with service provided by the utility pursuant to any other special contract agreements.

### *Applicability*

The discount authorized by the bill is applicable only to new facilities or expanded facilities that meet the following requirements:

- A peak demand that is reasonably projected to be at least 200 kilowatts within 2 years of the date the customer first receives service under the discounted rate and is not the result of shifting existing demand from other facilities of the customer in a utility's certified service territory; and
  - Has an annual load factor that is projected to equal or exceed the electric public utility's annual system load factor within two years of the date the customer first receives service under the discounted rate; or
  - Otherwise warrants a discounted rate based on any of the following factors:
    - The number of new permanent full-time jobs created or the percentage increase in existing permanent full-time jobs created;
    - The level of capital investment;
    - Additional off-peak usage;
    - Curtailable or interruptible load;
    - New industry or technology; or
    - Competition with existing industrial customers; or

- A peak demand that is reasonably projected to be at least 300 kilowatts within 2 years of the date the customer first receives service under the discounted rate and is not the result of shifting existing demand from other facilities of the customer in the utility's certified service territory; and
  - An annual load factor that is reasonably projected to be at least 55 percent of the utility's annual system load factor within 2 years of the date the customer first receives service under the discounted rate; and
  - The facility maintains the peak demand and load factor for the remaining duration of the discounted rate.

### *Calculation of Discount*

The discount authorized by the bill is determined by reducing otherwise applicable charges associated with the rate schedule that applies to the new or expanded existing facility by a fixed percentage for each year of service under the discount for a period of up to five years.

The average of the annual discount percentages cannot exceed 20 percent for discounts for facilities that have a projected peak demand of at least 200 kilowatts, but may be between 5 percent to 30 percent in any year. For facilities that have a projected peak demand of at least 300 kilowatts, the average of the annual discount percentages cannot exceed 40 percent, but may be between 20 percent to 50 percent in any year.

In each general rate proceeding concluded after July 1, 2020, the KCC is required to allocate the reduced level of revenues arising from the discounted rates provided by the bill through the application of a uniform percentage adjustment to the revenue requirement responsibility for all customer classes of the utility providing the discounted rate, including the classes with customers that qualify for discounts under the bill, except for contract rates either approved by the KCC pursuant to the bill or its general ratemaking authority.

### *Tracking Mechanisms and Deferred Regulatory Assets*

For both contract rates and discounted rates, the KCC is required to approve a mechanism to track the utility's reductions in revenue as a result of the contract rate or discounted rate from the date the rate becomes effective. The bill requires such reductions in revenue to be deferred to a regulatory asset and would accrue interest at the weighted average cost of capital used by the KCC to set the utility's rates in its most recent general rate proceeding. The balance of the regulatory asset is included in the rate base and revenue requirement of the utility in each of its general rate proceedings through an amortization of the balance over a reasonable period until fully collected from the utility's non-contract rate customers.

### *General Applicability*

The bill clarifies provisions related to discounted rates will not apply to those related to contract rates approved by the KCC pursuant to the bill or the KCC's general ratemaking authority in place prior to July 1, 2020.

### Definitions

The bill defines various terms for purposes specific to bill provisions regarding contract and discounted utility rates:

- “Electric public utility” has the same meaning as used elsewhere in Chapter 66 of the *Kansas Statutes Annotated*, but does not include any utility that is a cooperative or is owned by one or more such cooperatives;
- “Facility” means an existing or proposed building or buildings of an existing or potential electric customer with existing or expected load equal to, or in excess of, a monthly demand of 50 megawatts, and the load may represent the aggregate demand of multiple meter accounts;
- “Expanded facility” means a separately metered facility of the customer, unless the utility determines the additional costs of separate metering of a facility would exceed the associated benefits or that it would be difficult or impractical to install or read the meter, that has not received service in the electric utility’s certified service territory in the previous 12 months; and
- “New facility” means a building of the customer that has not received electric service in the electric utility’s certified service territory in the previous 12 months.

### Status Reports

The bill requires the KCC to provide a status report to the Legislature biennially, starting in January 2023, regarding utilities’ use of contract rates and discounted rates, with the following items included:

- Number of entities with such contract or discounted rates;
- Number of entities with increased load;
- Number of entities with decreased load;
- Aggregate load and change in aggregate load on an annual basis;
- Total subsidy and the subsidy for each individual contract;
- Annual and cumulative rate increase on non-contract rate customers; and
- Estimated economic development impact of entities with contract rates or discounted rates that occurred as a result of such contract rates through an evaluation of the entities’ annual total employment, change in employment, and tax revenue generated.

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