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MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: March 26, 2021
Subject: Bill Brief for SB 286

Summary

Senate Bill No. 286 would establish the COVID-19 Governmental Use of Business Compensation Act to create the COVID-19 governmental use claims fund to provide funds for impacted businesses, provide income tax credits for impacted businesses, provide for the reimbursement to certain property owners of property taxes resulting from a forced shutdown or capacity limitation and create a business loan forgiveness program.

Section 1 provides the citation to the COVID-19 Governmental Use of Business Compensation Act and provides definitions of “restriction” and “order” as used in the act.

- "Restriction" means any occupancy limitation, limitation on periods of operation or the exertion by any governmental entity of other significant control on business resources or functionality. Commencing May 1, 2021, any governmental entity mandating the use of face masks and any enforcement requirement by Kansas businesses shall be considered a "restriction" under this act and entitled to compensation hereunder.
- "Order" means any order issued by any governmental entity pursuant to the Kansas emergency management act related to the COVID-19 pandemic.

Section 2 establishes the COVID-19 governmental use claims fund in the state treasury to be administered by the attorney general. On July 1, 2025, the moneys in and the liabilities of such fund are to be transferred to the state general fund and such fund abolished.

The moneys in the COVID-19 governmental use claims fund shall be used to pay compromises, settlements and final judgments arising from claims against the state under the Kansas emergency management act, the eminent domain laws of the state or any claim related to compensation for a governmental taking. Provisions for compromise and settlement are provided.

Moneys are to be identified that are received by the state on and after January 1, 2021, from the federal government for coronavirus relief aid that may be expended at the discretion of the state and are unencumbered. Of the identified moneys, \$100,000,000 available in special revenue funds would be transferred to the COVID-19 governmental use claims fund.

Claims brought under the act shall be filed with the attorney general on or before December 31, 2022, or 365 days after the termination of any state of disaster emergency declared pursuant to K.S.A. 48-924, and amendments thereto, related to COVID-19 that apply to the claimant's property, whichever date is later in time.

Section 3 provides that the act will be administered by the attorney general. Applications shall be accompanied by a copy of the claimant's 2019 Kansas income tax return and an affidavit relating to the orders to cease or restrict operations. The attorney general shall consider the factors enumerated in the bill in evaluating the claim. Valid claims approved by the attorney general for settlement shall be paid from funds existing in the COVID-19 governmental use claims fund. In

lieu of payment of such claim, a claimant may elect either a tax credit or tax abatement or both as an exclusive remedy as further provided in the act.

Sections 4 through 6 establish and govern a refundable income tax credit for tax years 2021 and 2022 against the Kansas income tax liability of a taxpayer in an amount equal to the credit amount stated in the claimant's certificate of government use less any property tax abatement received under the act. The attorney general issues the certificate of government use based upon the qualifying factors listed in Section 5.

Section 7 provides that the owner of a building with a business on the premises may make an application to the governing body of a government entity for reimbursement of property taxes for the period of time that the business was shut down or limited in capacity as ordered by the government entity. The application shall be accompanied by a copy of the claimant's certificate of government use issued by the attorney general. The reimbursement would be paid out of the government entity's general fund and shall not exceed the unused amount stated on the claimant's certificate of government use.

Section 8 provides that the secretary of commerce shall create a business loan forgiveness program for state loans given to applicable businesses due to the COVID-19 pandemic.

The bill would take effect from and after its publication in the statute book.