

**SENATE BILL No. 109**

By Committee on Utilities

1-29

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1 AN ACT concerning emergencies and disasters; creating the Kansas  
2 disaster utilities response act; department of revenue.

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

5 Section 1. (a) For the purposes of this section:

6 (1) "Declared state disaster or emergency" means a disaster or  
7 emergency event declared by the governor pursuant to K.S.A. 48-924, and  
8 amendments thereto, a state or local disaster emergency declared by the  
9 chair of the board of county commissioners of any county or by the mayor  
10 or other principal executive officer of a city pursuant to K.S.A. 48-932,  
11 and amendments thereto, or a presidential declaration of a federal major  
12 disaster or emergency.

13 (2) "Disaster response period" means a period that begins 10 days  
14 prior to the first day of a declared state disaster or emergency and that  
15 extends for a period of 60 calendar days after the end of the declared  
16 disaster or emergency period or any longer period authorized by the  
17 governor.

18 (3) "Disaster or emergency-related work" means repairing,  
19 renovating, installing, building or rendering services or other business  
20 activities that relate to critical infrastructure that has been damaged,  
21 impaired or destroyed by the declared state disaster or emergency.

22 (4) "Critical infrastructure" means property and equipment, or any  
23 related support facilities that service multiple customers or citizens,  
24 including, but not limited to, real and personal property such as buildings,  
25 offices, lines, poles, pipes, structures and equipment, that are owned or  
26 used by operators of:

27 (A) Telecommunications, cable or other communications networks;

28 (B) electric generation, transmission or distribution systems;

29 (C) natural gas and natural gas liquids gathering, processing, storage,  
30 transmission or distribution systems; or

31 (D) water pipelines.

32 (5) "Registered business" means a business entity that, prior to the  
33 declared state disaster or emergency and work related thereto, is registered  
34 with the secretary of state, in good standing and authorized to do business  
35 in the state.

36 (6) "Out-of-state business" means a business entity that, prior to the

1 declared state disaster or emergency and work related thereto:

2 (A) Has no presence, registrations or tax filings in the state and  
3 conducts no business in the state; and

4 (B) is requested by a registered business, state agency, county or city  
5 disaster agency established pursuant to K.S.A. 48-929, and amendments  
6 thereto, or interjurisdictional disaster agency established pursuant to  
7 K.S.A. 48-930, and amendments thereto, to provide disaster or emergency-  
8 related work in the state. This shall also include a business entity affiliated  
9 with a registered business solely through common ownership.

10 (7) "Out-of-state employee" means an individual who does not work  
11 in the state, except for disaster or emergency-related work during the  
12 disaster response period.

13 (8) "State agency" shall have the meaning ascribed to such term in  
14 K.S.A. 75-3701, and amendments thereto.

15 (b) (1) An out-of-state business that conducts operations within the  
16 state for purposes of performing disaster or emergency-related work  
17 during the disaster period shall not be considered to have established a  
18 level of presence that would require that business to register, file or remit  
19 state or local taxes or that would require that business or such business'  
20 out-of-state employees to be subject to any state licensing or registration  
21 requirements, including:

22 (A) Any and all state or local business licensing or registration  
23 requirements;

24 (B) state or local taxes or fees including, but not limited to, state  
25 income and employer withholding taxes, unemployment insurance, state or  
26 local occupational licensing fees, sales and use tax or ad valorem tax on  
27 equipment used or consumed during the disaster response period; and

28 (C) licensing and regulatory requirements of the state corporation  
29 commission or the secretary of state.

30 (2) For purposes of any state or local tax on or measured by, in whole  
31 or in part, net or gross income or receipts, all activity of the out-of-state  
32 business that is conducted in this state pursuant to this section shall be  
33 disregarded with respect to any filing requirements for such tax, including  
34 the filing required for a unitary or combined group of which the out-of-  
35 state business may be a part. For the purpose of apportioning income,  
36 revenue or receipts, the performance by an out-of-state business of any  
37 work in accordance with this section shall not be sourced to or shall not  
38 otherwise impact or increase the amount of income, revenue or receipts  
39 apportioned to this state.

40 (3) Any out-of-state employee shall not be considered to have  
41 established residency or a presence in the state that would require the  
42 employee or the employee's employer to file and pay state income taxes or  
43 to be subjected to tax withholdings or to file and pay any other state or

1 local tax or fee during the disaster response period. This includes any  
2 related state or local employer withholding and remittance obligations.

3 (c) Out-of-state businesses and out-of-state employees shall pay  
4 transaction taxes and fees, including, but not limited to, fuel taxes or sales  
5 or use taxes, on tangible personal property, materials or services,  
6 consumed or used in the state subject to sales or use taxes, hotel taxes, car  
7 rental taxes or fees that the out-of-state business or out-of-state employee  
8 purchases for use or consumption in the state during the disaster response  
9 period, unless such taxes are otherwise exempted during a disaster  
10 response period.

11 (d) Any out-of-state business or out-of-state employee that remains in  
12 the state after the disaster response period will become subject to the  
13 state's normal standards for establishing presence, residency or doing  
14 business in the state and will be responsible for any business or employee  
15 tax requirements or obligations thereafter.

16 (e) (1) Any out-of-state business that enters the state shall, upon  
17 request, provide to the department of revenue a written statement that it is  
18 in the state for purposes of responding to a declared state disaster or  
19 emergency. Such statement shall include the out-of-state business' name,  
20 state of domicile, principal business address, federal tax identification  
21 number, date of entry and contact information.

22 (2) A registered business shall, upon request, provide the department  
23 of revenue the information required in this subsection for any affiliate that  
24 enters the state that is an out-of-state business. The notification shall also  
25 include contact information for the registered business.

26 (3) Any out-of-state business or out-of-state employee that remains in  
27 the state after the disaster response period shall complete and comply with  
28 all state and local registration, licensing and filing requirements that ensue  
29 as a result of establishing the requisite business presence or residency in  
30 the state applicable under the existing rules.

31 (4) The department of revenue shall maintain an annual record of all  
32 declared state disasters and emergencies pursuant to this section and may  
33 promulgate any rules and regulations necessary to effectuate the provisions  
34 of this section.

35 Sec. 2. This act shall take effect and be in force from and after its  
36 publication in the statute book.