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**REVISOR of STATUTES**

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**MEMORANDUM**

To: Chairman Kelly and members of the House Financial Institutions and Pensions Committee  
From: Office of Revisor of Statutes  
Date: May 19, 2020  
Subject: **Proposed Senate Substitute for HB 2619 - Kansas economic recovery loan deposit program; updating field of membership requirements of credit unions and allowing privilege tax deductions on certain business and single family residence loans.**

Proposed Senate Substitute for House Bill No. 2619 (20rs3403) was recommended by the Senate Committee on Financial Institutions and Insurance on May 15, 2020. The bill creates the Kansas economic recovery loan deposit program and amends certain statutes relating to field of membership requirements of credit unions and to privilege tax deductions on certain business and single-family residence loans for banks.

Sections 1 through 7 create the Kansas economic recovery loan deposit program. Section 1 names the program and section 2 provides definitions specific to such program. "Eligible borrower" is any individual or entity operating a business primarily for commercial or agricultural purposes and "eligible lending institution" means a bank, credit union or farm credit institution that agrees to participate in the program and provides securities acceptable to the pooled money investment board pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated.

Section 3 provides that the program is to be administered by the state treasurer (treasurer) and shall be for the purpose of providing incentives for the making of business loans. The total amount of loans made under the program shall not exceed \$60,000,000 of the unencumbered idle funds of the state. The treasurer shall adopt rules and regulations for the program not later than February 1, 2021, and shall submit an annual report to the governor and the legislature identifying eligible lending institutions participating in the program, eligible borrowers who received a loan, the aggregate amount loaned, and the amount of money still available for loan, if any. The report is due on or before January 1, 2022, and each January 1 thereafter.

Section 4 authorizes the treasurer to disseminate information to eligible lending institutions and provide loan packages to such lending institutions. Such package shall be completed by the prospective borrower and forwarded to the lending institution for consideration. An eligible lending that agrees to receive a loan deposit shall accept and review applications for loans from eligible borrowers applying such lending institution's usual lending standards to determine the credit worthiness of eligible borrowers. No single loan shall exceed \$250,000 and only one loan shall be made and be outstanding to any eligible borrower at any one time. No loan shall be amortized for a period of more than 10 years. Eligible borrowers are required to certify on the loan application that such loan will be used only for expenses involved in operating the borrower's business. Lending institutions may approve or reject a loan package based on such institution's evaluation of the eligible borrowers included in the package, the amount of the individual loan in the package and other appropriate considerations.

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Section 5 allows the treasurer to accept or reject the loan package submitted by the lending institution based on the treasurer's evaluation of whether the package meets the requirements of the program. If sufficient funds are not available for such loans, 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 approval of the loan package, the treasurer shall certify to the director of investments the amount required for such loan package and the director of investments shall make a deposit with the lending institution of such certified amount from idle state funds. The minimum interest rate on such deposit shall be 0.25% if the market rate is below 2.25%. If the market rate is greater than 2.25%, the interest rate shall be 2% below such market rate. The eligible lending institution enters into an agreement with the treasurer to lend an amount equal to the loan deposit to eligible borrowers at an interest rate that is not more than 3% greater than the interest rate made available to the lending institution.

Section 6 states that upon placement of a loan deposit with the lending institution, such institution shall fund the loan to each approved borrower listed in the agreement between the institution and the treasurer at the rates provided in section 5. Certification of compliance with section shall be required of the lending institution in the form and manner prescribed by the treasurer.

Section 7 provides that the state of Kansas and the treasurer shall not be liable to any lending institution in any manner for payment of the principal or interest on any loan under this program to an eligible borrower. Any delay in payments or default on the part of borrower does not affect the agreement between the lending institution and the treasurer.

Section 8 amends K.S.A. 17-2205 to update the field of membership requirements of credit unions. Under current law, if a credit union's field of membership contains multiple contiguous political jurisdictions, the aggregate total population of such geographic area cannot exceed 500,000. Under the bill, the total population limitation is increased to 2,500,000. The requirement that no geographic area shall consist of any congressional district is eliminated under the bill, however, the current restriction that no geographic area shall consist of the entire state of Kansas remain in effect. The bill also removes current language allowing for a different population maximum determined by a formula for credit unions with headquarters in a metropolitan statistical area of more than one county.

Section 9 amends K.S.A. 75-4237 to conform the statute with the new economic recovery loan deposit program and the interest rate that will be applied to the program.

Section 10 amends K.S.A. 79-1109 to allow a privilege tax deduction for banks beginning tax year 2022 for the net interest income received from qualified agricultural real estate loans attributed to Kansas and the net interest income received from single family residence loans attributed to Kansas. Qualified agricultural real estate is real property that is substantially used for the production of one or more agricultural products. A single family residence is defined as a principal residence located in Kansas in a rural area as defined by the U.S. department of agriculture not within a metropolitan statistical area and has a population of 2,500 or less as determined by the most recent census and is purchased or improved with the proceeds of the loan.