



**Proponent Testimony for SB 24 – Reconciling the definition of “small employer”**

**March 8, 2023**

Chairman Sutton and Members of the Committee,

Thank you for the opportunity to testify in support of Senate Bill 24.

Senate Bill 24 amends the definition of small employer in K.S.A. 40-2,194, which is currently defined as “... an employer who employed an average of at least one but not more than 100 employees...”

This bill proposes to amend that definition to read “two but not more than 50,” which would align the statute with the definition of small employer found in K.S.A. 40-2209d concerning general health insurance. Subsequently, the definition of large employer would need to be adjusted to read “... an employer who employed an average of at least 51 employees...”

Below is an outline of the history of the “small employer” definition:

**1997- present-** The definition of small employer in K.S.A 40-2209d is 2-50, per [SB 204](#).

**2010-** The Affordable Care Act (ACA) was enacted and effective in 2016 the definition of small group employer would increase nationally to include employers with up to 100 employees.

**2014-** The Autism mandate legislation, [HB 2744](#) passed, with the small employer definition 1-50.

**June 2015-** To prevent the state’s defrayal of the cost of the Autism mandate, the Legislature adopted [HB 2352](#), changing the definition found in the Autism mandate statute K.S.A. 40-2,194 to 1-100. However, did not change K.S.A. 40-2209d, which is the small group statute for group health insurance.

**October 2015-** As a result of concerns about the definition change, including the potential for increased rates for groups 51-100 being included in the small group definition rather than the large group definition, because of the way they are rated under the ACA, the PACE Act passed, allowing states to revert to previous small and large group definitions. No action was needed on 40-2209d, because it was never changed. However, K.S.A. 40-2,194 still remains inconsistent with the definition of small and large group employer in our statutes, as it currently reads 1-100.

The Department recently sent out a data call to insurers who write small and large group major medical and asked how many groups would be impacted by the change in the definition from 1-1-100 to 2-50. Carriers reported the following:

- **Groups impacted: 541**
- **Total lives impacted: 40,926**
- **Total lives impacted between the ages of 0-12: 7,096**

The Department has confirmed **the benefit is already being provided in the contracts of all of those that are potentially able to incur the services required in the statute.** Insurers find it is too difficult administratively to differentiate the benefit structures as both group sizes are considered large group by definition in Kansas statutes.

The Department frequently receives inquiries from employers concerning this discrepancy. To bring parity to these definitions and provide clarity for employers, the Department is supportive of amending the definition of small employer and subsequently adjusting the definition of large employer in K.S.A. 40-2,194 to match that of K.S.A. 40-2209d.

Senate Bill 24 passed the Senate Committee of the Whole with a vote of 38-1.

Thank you for the opportunity to submit testimony in support of Senate Bill 24.

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Director of Government and Public Affairs