

SENATE BILL No. 40

AN ACT concerning governmental response to certain emergencies; prescribing powers, duties and functions of the board of education of each school district, the governing body of each community college and the governing body of each technical college related to the COVID-19 health emergency and establishing judicial review thereof; adding the vice president of the senate to the legislative coordinating council; modifying the procedure for the declaration and extension of a state of disaster emergency under the Kansas emergency management act; authorizing the legislative coordinating council and the legislature to take certain actions related to a state of disaster emergency; prohibiting certain actions by the governor related to the COVID-19 health emergency and revoking all executive orders related to such emergency on March 31, 2021; limiting powers granted to the governor during a state of disaster emergency; establishing judicial review for certain executive orders issued during a state of disaster emergency and certain actions taken by a local unit of government during a state of local disaster emergency; providing criminal penalties for a knowing violation of certain executive orders; adding 911 call center public safety telecommunicators and physician assistants to the definition of emergency responder; authorizing the legislature or the legislative coordinating council to revoke certain orders issued by the secretary of health and environment; limiting powers granted to local health officers related to certain orders and establishing judicial review thereof; amending K.S.A. 46-1201, 65-101 and 75-3711 and K.S.A. 2019 Supp. 48-925, as amended by section 4 of 2021 Senate Bill No. 14, and K.S.A. 2020 Supp. 48-924, as amended by section 2 of 2021 Senate Bill No. 14, 48-924b, as amended by section 3 of 2021 Senate Bill No. 14, 48-925a, as amended by section 6 of 2021 Senate Bill No. 14, 48-932, 48-939, 48-949 and 65-201 and repealing the existing sections; also repealing K.S.A. 2019 Supp. 48-925, as amended by section 5 of 2021 Senate Bill No. 14, and K.S.A. 2020 Supp. 48-925b.

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

New Section 1. (a) (1) During the state of disaster emergency related to the COVID-19 health emergency described in K.S.A. 2020 Supp. 48-924b, and amendments thereto, only the board of education responsible for the maintenance, development and operation of a school district shall have the authority to take any action, issue any order or adopt any policy made or taken in response to such disaster emergency that affects the operation of any school or attendance center of such school district, including, but not limited to, any action, order or policy that:

(A) Closes or has the effect of closing any school or attendance center of such school district;

(B) authorizes or requires any form of attendance other than full-time, in-person attendance at a school in the school district, including, but not limited to, hybrid or remote learning; or

(C) mandates any action by any students or employees of a school district while on school district property.

(2) An action taken, order issued or policy adopted by the board of education of a school district pursuant to paragraph (1) shall only affect the operation of schools under the jurisdiction of the board and shall not affect the operation of nonpublic schools.

(3) During any such disaster emergency, the state board of education, the governor, the department of health and environment, a local health officer, a city health officer or any other state or local unit of government may provide guidance, consultation or other assistance to the board of education of a school district but shall not take any action related to such disaster emergency that affects the operation of any school or attendance center of such school district pursuant to paragraph (1).

(b) Any meeting of a board of education of a school district discussing an action, order or policy described in this section, including any hearing by the board under subsection (c), shall be open to the public in accordance with the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto, and may be conducted by electronic audio-visual communication when necessary to secure the health and safety of the public, the board and employees.

(c) (1) An employee, a student or the parent or guardian of a student aggrieved by an action taken, order issued or policy adopted by the board of education of a school district pursuant to subsection (a)(1), or an action of any employee of a school district violating any such action, order or

policy, may request a hearing by such board of education to contest such action, order or policy within 30 days after the action was taken, order was issued or policy was adopted by the board of education. Any such request shall not stay or enjoin such action, order or policy.

(2) Upon receipt of a request under paragraph (1), the board of education shall conduct a hearing within 72 hours of receiving such request for the purposes of reviewing, amending or revoking such action, order or policy. The board shall issue a decision within seven days after the hearing is conducted.

(3) The board of education may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

(d) (1) An employee, a student or the parent or guardian of a student aggrieved by a decision of the board of education under subsection (c)(2) may file a civil action in the district court of the county in which such party resides or in the district court of Shawnee county, Kansas, within 30 days after such decision is issued by the board. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless the court finds the action taken, order issued or policy adopted by the board of education is narrowly tailored to respond to the state of disaster emergency and uses the least restrictive means to achieve such purpose. The court shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this section shall not include a stay or injunction concerning the contested action taken, order issued or policy adopted by the board of education that applies beyond the county in which the petition was filed.

(3) The supreme court may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

New Sec. 2. (a) (1) During the state of disaster emergency related to the COVID-19 health emergency described in K.S.A. 2020 Supp. 48-924b, and amendments thereto, only the governing body of a community college, as established pursuant to K.S.A. 71-201, and amendments thereto, or the governing body of a technical college, as established pursuant to K.S.A. 74-32,452, and amendments thereto, shall have the authority to take any action, issue any order or adopt any policy made or taken in response to such disaster emergency that affects the operation of the community college or technical college governed by such governing body, including, but not limited to, any action, order or policy that:

(A) Closes or has the effect of closing any community college or technical college;

(B) authorizes or requires any form of attendance at any community college or technical college; or

(C) mandates any action by any students or employees of a community college or technical college while on college property.

(2) During any such disaster emergency, the state board of regents, the governor, the department of health and environment, a local health officer, a city health officer, the Kansas association of community college trustees, the Kansas technical college association or any other state or local unit of government may provide guidance, consultation or other assistance to the governing body of a community college or

technical college, but shall not take any action related to such disaster emergency that affects the operation of any such college.

(b) Any meeting of a governing body of a community college or technical college discussing an action, order or policy described in this section, including any hearing by such governing body under subsection (c), shall be open to the public in accordance with the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto, and may be conducted by electronic audio-visual communication when necessary to secure the health and safety of the public, the governing body and employees.

(c) (1) An employee or a student aggrieved by an action taken, order issued or policy adopted by the governing body of a community college or technical college pursuant to subsection (a)(1), or an action of any employee of such college violating any such action, order or policy, may request a hearing by such governing body to contest such action, order or policy. Any such request shall not stay or enjoin such action, order or policy.

(2) Upon receipt of a request under paragraph (1), the governing body shall conduct a hearing within 72 hours of receiving such request for the purposes of reviewing, amending or revoking such action, order or policy. The governing body shall issue a decision within seven days after the hearing is conducted.

(3) The governing body may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

(d) (1) An employee or a student aggrieved by a decision of the governing body under subsection (c)(2) may file a civil action in the district court of the county in which such party resides or in the district court of Shawnee county, Kansas, within 30 days after such decision is issued by the governing body. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless the court finds the action taken, order issued or policy adopted by the governing body is narrowly tailored to respond to the state of disaster emergency and uses the least restrictive means to achieve such purpose. The court shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this section shall not include a stay or injunction concerning the contested action taken, order issued or policy adopted by the governing body that applies beyond the county in which the petition was filed.

(3) The supreme court may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

Sec. 3. K.S.A. 46-1201 is hereby amended to read as follows: 46-1201. (a) There is hereby established the legislative coordinating council which shall have ~~seven~~ ⁽⁷⁾ *eight* members. Such members shall be the president of the senate, the speaker of the house of representatives, *the vice president of the senate*, the speaker pro tem of the house of representatives, the majority leader of the senate, the majority leader of the house of representatives, the minority leader of the senate, and the minority leader of the house of representatives.

(b) In even-numbered years, the speaker of the house of representatives shall be ~~chairman~~ *chairperson* of the legislative

coordinating council, and the president of the senate shall be ~~vice-chairman thereof~~ *vice chairperson*. In odd-numbered years, the president of the senate shall be ~~chairman~~ *chairperson* of the legislative coordinating council, and the speaker shall be ~~vice-chairman thereof~~ *vice chairperson*.

(c) The legislative coordinating council shall meet at least once each month in the interim between legislative sessions. Such council shall meet on the call of ~~its chairman~~ *the chairperson* or any three members of the council. The director of legislative administrative services, director of legislative research, revisor of statutes and each member of the legislature shall be given notice of each meeting of the council by ~~its chairman~~ *the chairperson*, except in cases of emergency. Each such notice shall state the date, time and place of the meeting. The ~~chairman~~ *chairperson* also shall cause minutes to be prepared for each meeting of the council, and a copy thereof shall be sent to each person who is required to receive notice of the council's meetings by this subsection. It shall not be necessary to transmit with such minutes any accompanying documents for any item of business, but the minutes shall indicate whether there are supportive documents for any item of business, the nature of such documents and where they are filed or stored.

Sec. 4. K.S.A. 2020 Supp. 48-924, as amended by section 2 of 2021 Senate Bill No. 14, is hereby amended to read as follows: 48-924.

(a) The governor shall be responsible for meeting the dangers to the state and people presented by disasters.

(b) (1) Subject to the provisions of K.S.A. 2020 Supp. 48-924b, and amendments thereto, the governor, upon finding that a disaster has occurred or that occurrence or the threat thereof is imminent, shall issue a proclamation declaring a state of disaster emergency.

(2) In addition to or instead of the proclamation authorized by K.S.A. 47-611, and amendments thereto, the governor, upon a finding or when notified pursuant to K.S.A. 47-611, and amendments thereto, that a quarantine or other regulations are necessary to prevent the spread among domestic animals of any contagious or infectious disease, may issue a proclamation declaring a state of disaster emergency. In addition to or instead of any actions pursuant to the provisions of K.S.A. 2-2114, and amendments thereto, the governor, upon a finding or when notified pursuant to K.S.A. 2-2112 et seq., and amendments thereto, that a quarantine or other regulations are necessary to prevent the spread among plants, raw agricultural commodities, animal feed or processed food of any contagious or infectious disease, may issue a proclamation declaring a state of disaster emergency.

(3) The state of disaster emergency so declared shall continue until the governor finds that the threat or danger of disaster has passed, or the disaster has been dealt with to the extent that emergency conditions no longer exist. Upon making such findings the governor shall terminate the state of disaster emergency by proclamation, but except as provided in paragraph (4), no state of disaster emergency may continue for longer than 15 days unless ratified by concurrent resolution of the legislature, with the single exception that upon specific application by the governor to the ~~state finance council~~ *legislative coordinating council* and an affirmative vote of ~~a majority~~ *five* of the ~~legislative~~ members thereof, a state of disaster emergency may be extended ~~once~~ for a specified ~~period not to exceed 30 days~~ *beyond such 15-day period periods not to exceed 30 days each*.

(4) If the state of disaster emergency is proclaimed pursuant to paragraph (2), the governor shall terminate the state of disaster emergency by proclamation within 15 days, unless ratified by

concurrent resolution of the legislature, except that when the legislature is not in session and upon specific application by the governor to the ~~state finance~~ *legislative coordinating* council and an affirmative vote of ~~a majority of the legislative five~~ members thereof, a state of disaster emergency may be extended for a specified period not to exceed 30 days. The ~~state finance~~ *legislative coordinating* council may authorize additional extensions of the state of disaster emergency by ~~a unanimous~~ *an affirmative* vote of ~~the legislative five~~ members thereof for specified periods not to exceed 30 days each. Such state of disaster emergency shall be terminated on the 15th day of the next regular legislative session following the initial date of the state of disaster emergency unless ratified by concurrent resolution of the legislature.

(5) The state of disaster emergency described in K.S.A. 2020 Supp. 48-924b, and amendments thereto, shall terminate ~~on September 15, 2020~~, as provided in K.S.A. 2020 Supp. 48-924b, and amendments thereto, except that when the legislature is not in session or is adjourned during session for three or more days, and upon specific application by the governor to the ~~state finance~~ *legislative coordinating* council and an affirmative vote of ~~at least six of the legislative members of the council~~ *five members thereof*, this state of disaster emergency may be extended for specified periods not to exceed 30 days each. ~~No such extension granted by the state finance council shall continue past March 31, 2021.~~

(6) At any time, the legislature by concurrent resolution may require the governor to terminate a state of disaster emergency. Upon such action by the legislature, the governor shall issue a proclamation terminating the state of disaster emergency.

(7) Any proclamation declaring or terminating a state of disaster emergency ~~which~~ *that* is issued under this ~~subsection~~ *section* shall indicate the nature of the disaster, the area or areas *of the state* threatened or affected by the disaster and the conditions ~~which~~ *that* have brought about, or ~~which~~ *that* make possible the termination of, the state of disaster emergency. Each such proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent the same, each such proclamation shall be filed promptly with the division of emergency management, the office of the secretary of state and each city clerk or county clerk, as the case may be, in the area *or areas of the state* to which such proclamation applies.

(c) In the event of the absence of the governor from the state or the existence of any constitutional disability of the governor, an officer specified in K.S.A. 48-1204, and amendments thereto, in the order of succession provided by that section, may issue a proclamation declaring a state of disaster emergency in the manner provided in and subject to the provisions of subsection ~~(a)~~ *(b)*. During a state of disaster emergency declared pursuant to this subsection, such officer may exercise the powers conferred upon the governor by K.S.A. 48-925, and amendments thereto. If a preceding officer in the order of succession becomes able and available, the authority of the officer exercising such powers shall terminate and such powers shall be conferred upon the preceding officer. Upon the return of the governor to the state or the removal of ~~any~~ *the* constitutional disability of the governor, the authority of an officer to exercise the powers conferred by this section shall terminate immediately and the governor shall resume the full powers of the office. Any *such* state of disaster emergency and any actions taken by an officer under this subsection shall continue and shall have full force and effect as authorized by law unless modified or terminated by the governor in the manner prescribed by law.

(d) A proclamation declaring a state of disaster emergency shall activate the disaster response and recovery aspects of the state disaster emergency plan and of any local and interjurisdictional disaster plans applicable to the ~~political subdivisions or~~ *areas of the state and any political subdivisions thereof* affected by the proclamation. Such proclamation shall ~~be~~ *constitute the* authority necessary for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, materials or facilities assembled, stockpiled or arranged to be made available pursuant to this act during a disaster.

(e) The governor, when advised pursuant to K.S.A. 74-2608, and amendments thereto, that conditions indicative of drought exist, ~~shall~~ *be is* authorized to declare by proclamation that a state of drought exists. This declaration of a state of drought can be for specific areas or communities, can be statewide or for specific water sources and shall effect immediate implementation of drought contingency plans contained in state approved conservation plans, including those for state facilities.

Sec. 5. K.S.A. 2020 Supp. 48-924b, as amended by section 3 of 2021 Senate Bill No. 14, is hereby amended to read as follows: 48-924b. (a) The state of disaster emergency that was declared by the governor pursuant to K.S.A. 48-924, and amendments thereto, as a result of the COVID-19 health emergency, by proclamation on March 12, 2020, which was ratified and continued in force and effect through May 1, 2020, by 2020 House Concurrent Resolution No. 5025, adopted by the house of representatives with the senate concurring therein on March 19, 2020, declared by proclamation on April 30, 2020, which was extended and continued in existence by the state finance council on May 13, 2020, for an additional 12 days through May 26, 2020, and declared by proclamation on May 26, 2020, which was ratified and continued in existence through September 15, 2020, by this section, extended and continued in existence by the state finance council on September 11, 2020, for an additional 30 days through October 15, 2020, extended and continued in existence by the state finance council on October 7, 2020, for an additional 30 days through November 15, 2020, extended and continued in existence by the state finance council on November 13, 2020, for an additional 30 days through December 15, 2020, extended and continued in existence by the state finance council on December 11, 2020, for an additional 26 days through January 10, 2021, ~~and~~ extended and continued in existence by the state finance council on January 6, 2021, for an additional 16 days through January 26, 2021, *and ratified and continued in existence through March 31, 2021, by this section* for all 105 counties of Kansas, is hereby ratified and continued in existence from March 12, 2020, through ~~March 31~~ *May 28, 2021*.

(b) The governor shall not proclaim any new state of disaster emergency related, *in whole or in part*, to the COVID-19 health emergency, *including, but not limited to, any economic, financial or other crisis caused by such emergency*, during 2020 or 2021, unless the governor makes specific application to the ~~state finance legislative coordinating~~ *legislative* council and an affirmative vote of ~~at least six of the legislative five members of the council approve thereof~~ *approves* such action by the governor.

(c) *Notwithstanding any other provision of law to the contrary, all executive orders issued during the state of disaster emergency ratified and continued in existence pursuant to this section related to the COVID-19 health emergency are hereby revoked on March 31, 2021, and shall be null and void. Any new executive orders issued during the state of disaster emergency ratified and continued in existence*

pursuant to subsection (a) or during a state of disaster emergency authorized pursuant to subsection (b) that are related to the COVID-19 health emergency shall be subject to revocation by the legislature or the legislative coordinating council pursuant to K.S.A. 48-925, and amendments thereto.

Sec. 6. K.S.A. 2019 Supp. 48-925, as amended by section 4 of 2021 Senate Bill No. 14, is hereby amended to read as follows: 48-925.

(a) During any state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, the governor shall be commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement, embodied in appropriate executive orders or in rules and regulations of the adjutant general, but nothing ~~herein~~ shall restrict the authority of the governor to do so by *executive* orders issued at the time of a disaster.

(b) Under the provisions of this act and for the implementation of this act, the governor may issue *executive* orders to exercise the powers conferred by subsection (c) that have the force and effect of law during the period of a state of disaster emergency declared under K.S.A. 48-924(b), and amendments thereto, or as provided in K.S.A. 2020 Supp. 48-924b, and amendments thereto. ~~Within 24 hours of the issuance of any such order, The governor~~ *chairperson of the legislative coordinating council shall call a meeting of the state finance council to occur within 24 hours of the issuance of an executive order issued pursuant to this section for the purposes of reviewing such order. Such executive orders shall be null and void after the period of a state of disaster emergency has ended. Such executive orders may be revoked at any time by concurrent resolution of the legislature or, when the legislature is not in session or is adjourned during session for three or more days, such orders may be revoked by the legislative coordinating council with the affirmative vote of five members thereof.*

(c) *Except as provided in K.S.A. 2020 Supp. 48-924b, and amendments thereto, during a state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, in addition to any other powers conferred upon the governor by law and subject to the provisions of ~~subsection (d), (e) and (f)~~ subsections (d) and (e), the governor may:*

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders or rules and regulations of any state agency which implements such statute, if strict compliance with the provisions of such statute, order or rule and regulation would prevent, hinder or delay in any way necessary action in coping with the disaster;

(2) utilize all available resources of the state government and of each political subdivision as reasonably necessary to cope with the disaster;

(3) transfer the supervision, personnel or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities;

(4) subject to any applicable requirements for compensation under K.S.A. 48-933, and amendments thereto, commandeer or utilize any private property if the governor finds such action necessary to cope with the disaster;

(5) direct and compel the evacuation of all or part of the population from any area of the state stricken or threatened by a disaster, if the governor deems this action necessary for the preservation of life or other disaster mitigation, response or recovery;

(6) prescribe routes, modes of transportation and destinations in

connection with such evacuation;

(7) control ingress and egress of persons and animals to and from a disaster area, the movement of persons and animals within the area and the occupancy by persons and animals of premises therein;

(8) suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles;

(9) make provision for the availability and use of temporary emergency housing;

(10) require and direct the cooperation and assistance of state and local governmental agencies and officials; and

(11) perform and exercise such other functions, powers and duties in conformity with the constitution and the bill of rights of the state of Kansas and with the statutes of the state of Kansas, except any regulatory statute specifically suspended under the authority of subsection (c)(1), as are necessary to promote and secure the safety and protection of the civilian population.

~~(d) 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 limit or otherwise restrict the sale, purchase, transfer, ownership, storage, carrying or transporting of firearms or ammunition, or any component or combination thereof, including any components or combination thereof used in the manufacture of firearms or ammunition, or seize or authorize the seizure of any firearms or ammunition, or any component or combination thereto, except as otherwise permitted by state or federal law pursuant to subsection (c)(8) or any other executive authority.~~

~~(e) Notwithstanding any provision of this section to the contrary and pursuant to the governor's state of disaster emergency proclamation issued on May 26, 2020, the governor shall not have the power or authority to restrict businesses from operating or to restrict the movement or gathering of individuals. The provisions of this subsection shall expire on September 15, 2020.~~

~~(f) The governor shall not have the power under the provisions of the Kansas emergency management act or the provisions of any other law to alter or modify any provisions of the election laws of the state including, but not limited to, the method by which elections are conducted or the timing of such elections.~~

~~(g)~~*(f)* The governor shall exercise the powers conferred by subsection (c) by issuance of *executive* orders under subsection (b). Each *executive* order issued pursuant to the authority granted by subsection (b) shall specify the provision or provisions of subsection (c) by specific reference to each paragraph of subsection (c) that confers the power under which the *executive* order was issued. The adjutant general, subject to the direction of the governor, shall administer such *executive* orders.

~~(h)~~*(g)* *(1) Any party aggrieved by an executive order issued pursuant to this section that has the effect of substantially burdening or inhibiting the gathering or movement of individuals or the operation of any religious, civic, business or commercial activity, whether for-profit or not-for-profit, may file a civil action in the district court of the county in which such party resides or in the district court of Shawnee county, Kansas, within 30 days after the issuance of such executive order. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless the court finds such executive order is narrowly tailored to respond to the state of disaster emergency and uses the least restrictive means to achieve such purpose. The court*

shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this section shall not include a stay or injunction concerning the contested executive order that applies beyond the county in which the petition was filed.

(3) The supreme court may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

(h) (1) The board of county commissioners of any county may issue an order relating to public health that includes provisions that are less stringent than the provisions of an executive order effective statewide issued by the governor. Any board of county commissioners issuing such an order must make the following findings and include such findings in the order:

~~(1)(A)~~ *The board has consulted with the local health officer or other local health officials regarding the governor's executive order;*

~~(2)(B)~~ *following such consultation, implementation of the full scope of the provisions in the governor's executive order are not necessary to protect the public health and safety of the county; and*

~~(3)(C)~~ *all other relevant findings to support the board's decision.*

(2) If the board of county commissioners of a county issues an order pursuant to paragraph (1), such order shall operate in the county in lieu of the governor's executive order.

Sec. 7. K.S.A. 2020 Supp. 48-925a, as amended by section 6 of 2021 Senate Bill No. 14, is hereby amended to read as follows: 48-925a. (a) During any state of disaster emergency related to the COVID-19 public health emergency declared pursuant to K.S.A. 48-924, and amendments thereto, the governor may not issue an order that substantially burdens or inhibits the gathering or movement of individuals or operation of any religious, civic, business or commercial activity, whether for-profit or not-for-profit.

(b) Any order issued that violates or exceeds the restrictions provided in subsection (a) shall not have the force and effect of law during the period of a state of disaster emergency declared under K.S.A. 48-924(b), and amendments thereto, and any such order shall be null and void.

~~(c) The provisions of this section shall expire on March 31, 2021.~~

Sec. 8. K.S.A. 2020 Supp. 48-932 is hereby amended to read as follows: 48-932. (a) A state of local disaster emergency may be declared by the ~~chairman~~ *chairperson* of the board of county commissioners of any county, or by the mayor or other principal executive officer of each city of this state having a disaster emergency plan, upon a finding by such officer that a disaster has occurred or the threat thereof is imminent within such county or city. No state of local disaster emergency shall be continued for a period in excess of seven days or renewed, except with the consent of the board of county commissioners of such county or the governing body of such city. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed with the county clerk or city clerk. Any such declaration may be reviewed, amended or revoked by the board of county commissioners or the governing body of the city, respectively, at a meeting of such governing body.

(b) In the event of the absence of the ~~chairman~~ *chairperson* of the board of county commissioners from the county or the incapacity of such ~~chairman~~ *chairperson*, the board of county commissioners, by

majority action of the remaining members thereof, may declare a state of local disaster emergency in the manner provided in and subject to the provisions of subsection (a). In the event of the absence of the mayor or other principal executive officer of a city from the city or the incapacity of such mayor or officer, the governing body of the city, by majority action of the remaining members thereof, may declare a state of local disaster emergency in the manner provided in and subject to the provisions of subsection (a). Any state of local disaster emergency and any actions taken pursuant to applicable local and interjurisdictional disaster emergency plans, under this subsection shall continue and have full force and effect as authorized by law unless modified or terminated in the manner prescribed by law.

(c) The declaration of a local disaster emergency shall activate the response and recovery aspects of any and all local and interjurisdictional disaster emergency plans which are applicable to such county or city, and shall initiate the rendering of aid and assistance thereunder.

(d) No interjurisdictional disaster agency or any official thereof may declare a local disaster emergency, unless expressly authorized by the agreement pursuant to which the agency functions. However, an interjurisdictional disaster agency shall provide aid and services in accordance with the agreement pursuant to which it functions in the case of a state of local disaster emergency declared under subsection (a).

(e) (1) Any party aggrieved by an action taken by a local unit of government pursuant to this section that has the effect of substantially burdening or inhibiting the gathering or movement of individuals or the operation of any religious, civic, business or commercial activity, whether for-profit or not-for-profit, may file a civil action in the district court of the county in which such action was taken within 30 days after such action is taken. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless the court finds such action is narrowly tailored to respond to the state of local disaster emergency and uses the least restrictive means to achieve such purpose. The court shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this section shall not include a stay or injunction concerning the contested action that applies beyond the county in which the action was taken.

(3) The supreme court may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

Sec. 9. K.S.A. 2020 Supp. 48-939 is hereby amended to read as follows: 48-939. (a) *(1) Except as provided in paragraph (2), a person who intentionally violates any provision of this act, any rule and regulation adopted by the adjutant general under this act or any lawful order or proclamation issued under authority of this act whether pursuant to a proclamation declaring a state of disaster emergency under K.S.A. 48-924, and amendments thereto, or a declaration of a state of local disaster emergency under K.S.A. 48-932, and amendments thereto, may incur a civil penalty in an amount not to exceed \$2,500 per violation. Each penalty may be assessed in addition to any other penalty provided by law.*

(2) A knowing violation of an executive order issued pursuant to

K.S.A. 48-925, and amendments thereto, that mandates a curfew or prohibits public entry into an area affected by a disaster is a class A nonperson misdemeanor.

(b) Violations of ~~this section~~ subsection (a)(1) shall be enforced through an action brought under chapter 60 of the Kansas Statutes Annotated, and amendments thereto, by the attorney general or the county or district attorney in the county in which the violation took place. Civil penalties sued for and recovered by the county or district attorney shall be paid into the general fund of the county where the proceedings were instigated.

(c) The attorney general or any county or district attorney may 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 this act.

Sec. 10. K.S.A. 2020 Supp. 48-949 is hereby amended to read as follows: 48-949. As used in ~~this~~ *the Kansas intrastate emergency mutual aid act*:

(a) "Division" means the division of emergency management within the office of the adjutant general.

(b) "Emergency responder" means any person in the public or private sector who: (1) Has special skills, qualifications, training, knowledge and experience which would be beneficial to a participating political subdivision in response to a locally-declared emergency as defined in any applicable law or ordinance or authorized drill or exercises; and (2) is requested or authorized, or both, to respond. An emergency responder may or may not be required to possess a license, certificate, permit or other official recognition for the emergency responder's expertise in a particular field or area of knowledge. "Emergency responder" ~~may include~~ *includes*, but is not limited to, the following: Law enforcement officers, ~~fire fighters~~ *firefighters*, *911 call center public safety telecommunicators*, emergency medical services personnel, physicians, nurses, *physician assistants*, public health personnel, emergency management personnel, public works personnel and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency.

Sec. 11. K.S.A. 65-101 is hereby amended to read as follows: 65-101. (a) The secretary of health and environment shall exercise general supervision of the health of the people of the state and may:

(1) Where authorized by any other statute, require reports from appropriate persons relating to the health of the people of the state so a determination of the causes of sickness and death among the people of the state may be made through the use of these reports and other records;

(2) investigate the causes of disease, including especially, epidemics and endemics, the causes of mortality and effects of locality, employments, conditions, food, water supply, habits and other circumstances affecting the health of the people of this state and the causes of sickness and death;

(3) advise other offices and agencies of government concerning location, drainage, water supply, disposal of excreta and heating and ventilation of public buildings;

(4) make sanitary inspection and survey of such places and localities as the secretary deems advisable;

(5) take action to prevent the introduction of infectious or contagious disease into this state and to prevent the spread of infectious or contagious disease within this state;

(6) provide public health outreach services to the people of the state including educational and other activities designed to increase the individual's awareness and appropriate use of public and other

preventive health services.

(b) The secretary of health and environment may adopt rules and regulations necessary to carry out the provisions of ~~paragraphs (1) through (6), inclusive,~~ of subsection (a). In addition to other remedies provided by law, the secretary is authorized to apply to the district court, and such court shall have jurisdiction upon a hearing and for cause shown to grant a temporary or permanent injunction to compel compliance with such rules and regulations.

(c) In the event of a state of disaster emergency declared by the governor pursuant to K.S.A. 48-924, and amendments thereto, or a state of local disaster emergency declared pursuant to K.S.A. 48-932, and amendments thereto, the legislature may revoke an order issued by the secretary to take action related to such disaster emergency as provided in this subsection. Such order may be revoked at any time by concurrent resolution of the legislature or, when the legislature is not in session or is adjourned during session for three or more days, such order may be revoked by the legislative coordinating council with the affirmative vote of five members thereof.

Sec. 12. K.S.A. 2020 Supp. 65-201 is hereby amended to read as follows: 65-201. (a) The board of county commissioners of each county shall act as the county board of health for the county. Each county board shall appoint a person licensed to practice medicine and surgery, preference being given to persons who have training in public health, who shall serve as the local health officer and who shall act in an advisory capacity to the county board of health. The appointing authority of city-county, county or multicounty health units with less than 100,000 population may appoint a qualified local health program administrator as the local health officer if a person licensed to practice medicine and surgery or person licensed to practice dentistry is designated as a consultant to direct the administrator on program and related medical and professional matters. The local health officer or local health program administrator shall hold office at the pleasure of the board.

(b) (1) *Except as provided in paragraph (2), any order issued by the local health officer, including orders issued as a result of an executive order of the governor, may be reviewed, amended or revoked by the board of county commissioners of the county affected by such order at a meeting of the board. Any order reviewed or amended by the board shall include an expiration date set by the board and may be amended or revoked at an earlier date by a majority vote of the board.*

(2) If a local health officer determines it is necessary to issue an order mandating the wearing of face masks, limiting the size of gatherings of individuals, curtailing the operation of business, controlling the movement of the population of the county or limiting religious gatherings, the local health officer shall propose such an order to the board of county commissioners. At the next regularly scheduled meeting of the board or at a special meeting of the board, the board shall review such proposed order and may take any action related to the proposed order the board determines is necessary. The order shall become effective if approved by the board or, if the board is unable to meet, if approved by the chairperson of the board or the vice chairperson of the board in the chairperson's absence or disability.

(c) The board of county commissioners in any county having a population of less than 15,000 may contract with the governing body of any hospital located in such county for the purpose of authorizing such governing body of the hospital to supply services to a county board of health.

(d) (1) *Any party aggrieved by an order issued pursuant to subsection (b)(2) may file a civil action in the district court of the*

county in which the order was issued within 30 days after such order is issued. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless the court finds such order is narrowly tailored to the purpose stated in the order and uses the least restrictive means to achieve such purpose. The court shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this section shall not include a stay or injunction concerning the contested action that applies beyond the county in which the action was taken.

(3) The supreme court may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

Sec. 13. K.S.A. 75-3711 is hereby amended to read as follows: 75-3711. (a) The governor shall:

(1) Hear and determine appeals by any state agency from final decisions or final actions of the secretary of administration or the director of computer services.

(2) Approve, modify and approve or reject proposed rules and regulations submitted by the secretary of administration as provided in K.S.A. 75-3706, and amendments thereto.

(3) Make allocations to, and approve expenditures by a state agency, from any appropriations to the governor for that purpose, of funds for unanticipated and unbudgeted needs, under guidelines and limitations prescribed by K.S.A. 75-3711c, and amendments thereto, or other legislative enactment enhancing or altering K.S.A. 75-3711c, and amendments thereto.

(4) Exercise powers and perform functions specified for the state finance council or governor by the Kansas civil service act.

(b) (1) The chairperson and five or more other members of the state finance council shall constitute a quorum. Approval by the governor and approval by a majority vote of the legislative members of the state finance council shall govern, unless a unanimous vote is required by statute in any particular case.

(2) Whenever a matter is to be acted on by the state finance council and a unanimous vote is required to approve the particular matter by K.S.A. ~~48-924~~, 75-3713, 75-3713b or 75-3713c, and amendments thereto, or by any other statute, each member who is unable to attend the meeting at which the matter was voted on, may vote on the motion by written absentee vote in the manner prescribed by this subsection. In any such case, an absent member may vote on the motion by ~~(A)~~ writing the member's signature on a copy of the resolution setting forth the matter that is the subject of the motion, writing the date and indicating the member's vote for or against adoption of the resolution; and ~~(B)~~ submitting the copy of the resolution bearing the absentee vote to the secretary of the state finance council either before or not more than 10 days after the date of the meeting at which the motion was voted on. The secretary of the state finance council shall maintain each copy of a resolution bearing an absentee vote as part of the minutes and records of the meeting at which the motion on the resolution was voted on. The secretary shall indicate in the minutes of the meeting the name of each member voting in writing by absentee vote and the date on which the absentee vote was submitted to the secretary. If a particular matter requiring a unanimous vote receives the affirmative vote of each member of the state finance

council attending the meeting and the affirmative absentee vote pursuant to this subsection of each member not attending the meeting, then the matter shall be deemed to have received the unanimous vote of all members of the state finance council.

(c) Whenever statutes provide for any matter to receive state finance council action, ~~the same~~ *such matter* shall be made a matter of business before ~~said~~ *such* council, if and only if the matter is characterized as a legislative delegation, and in other such cases the governor shall exercise the function specified for the state finance council by applying the guidelines and limitations of K.S.A. 75-3711c, and amendments thereto, or other legislative enactment enhancing or altering ~~the same~~ *such function*.

New Sec. 14. The provisions of this act are severable. If any portion of the act is declared unconstitutional or invalid, or the application of any portion of the act to any person or circumstance is held unconstitutional or invalid, the invalidity shall not affect other portions of the act that can be given effect without the invalid portion or application, and the applicability of such other portions of the act to any person or circumstance shall remain valid and enforceable.

Sec. 15. K.S.A. 46-1201, 65-101 and 75-3711 and K.S.A. 2019 Supp. 48-925, as amended by section 4 of 2021 Senate Bill No. 14, and 48-925, as amended by section 5 of 2021 Senate Bill No. 14, and K.S.A. 2020 Supp. 48-924, as amended by section 2 of 2021 Senate Bill No. 14, 48-924b, as amended by section 3 of 2021 Senate Bill No. 14, 48-925a, as amended by section 6 of 2021 Senate Bill No. 14, 48-925b, 48-932, 48-939, 48-949 and 65-201 are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted

Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE

as amended _____

HOUSE adopted

Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.