

KANSAS OFFICE *of*  
**REVISOR *of* STATUTES**

LEGISLATURE *of* THE STATE *of* KANSAS  
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**MEMORANDUM**

To: Senate Committee on Judiciary  
From: Office of Revisor of Statutes  
Date: February 24, 2021  
Subject: Outline for SB 273

Senate Bill 273 enacts the governmental response to certain emergencies, primarily related to the Kansas emergency management act (KEMA).

New Section 1, pages 1-5: Public health disasters as a specific category of disasters under KEMA; governor may issue a proclamation declaring a state of public health disaster emergency; governor may issue executive orders to exercise the powers conferred; attorney general review; joint committee on emergency management review.

New Section 2, pages 5-7: Joint committee on emergency management.

New Section 3, pages 7-8: Cities and city health officers; restrictions and procedures when issuing orders to prevent the spread of an infectious, contagious or communicable disease; city health officer orders shall be reviewed, amended or revoked by the governing body of the city; person aggrieved by an order of the governing body may request a hearing to occur within 72 hours, then may request a hearing in a district court.

New Section 4, pages 8-9: Procedure for requesting a hearing in district court when a person is aggrieved by an order issued by the governing body of a city or a city health officer as described in section 3, an order issued by a board of county commissioners or a local health officer under K.S.A. 65-201 or 65-202, an action taken or an order issued by the secretary of health and environment under K.S.A. 65-101(a)(5), or an action taken, an order issued or a policy adopted by the board of education of a school district as described in section 5; district court shall conduct a hearing within 72 hours after receipt of the request, may extend in extraordinary circumstances.

New Section 5, pages 9-11: Actions by a board of education of a school district during a state of public health disaster emergency; only the board of education of a school district shall have the authority to take any action, issue any order or adopt any policy that affects the operation of any school within the school district; bill also repeals K.S.A 48-925b, statute that requires state

board of education approval of any executive order issued by the governor pursuant to K.S.A. 48-925 that has the effect of closing public or private school attendance centers in this state; 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 may request a hearing to occur within 72 hours, then may request a hearing in a district court.

Section 6, K.S.A. 48-904, pages 11-12: Definition section for the Kansas emergency management act (KEMA); creates a distinction between a “disaster” resulting from foodborne contagious or infectious disease and a “public health disaster” resulting from the occurrence or imminent threat of widespread or severe injury or loss of life resulting from any infectious or contagious disease that is human-to-human transmissible, including a disease that is transmissible through a medium or originates in a nonhuman source and becomes human-to-human transmissible, but not including foodborne illness.

Section 7, K.S.A. 48-923, pages 12-13: Governor shall not have the power or authority to temporarily or permanently: (1) Alter or modify the Kansas criminal code or the Kansas code of criminal procedure; (2) take any action that imposes limitations on gatherings or other activities of a religious nature; (3) seize, or authorize seizure of, any ammunition or suspend or limit the sale, dispensing or transportation of firearms or ammunition; (4) 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; or (5) take any action that gives preferential treatment for elective abortion as defined in K.S.A. 65-4a01, and amendments thereto, over any other elective medical procedure or for an abortion provider over any other business or commercial activity.

Section 8, K.S.A. 48-924, as amended by 2021 SB 14, pages 13-15: Governor shall issue a proclamation declaring a state of disaster emergency upon finding that a disaster has occurred or that occurrence or the threat thereof is imminent; current law duties related to extension of an emergency that are conferred on the state finance council are given to the joint committee on emergency management established by Section 2.

Section 9, K.S.A. 48-925, as amended by 2021 SB 14, pages 15-18: Powers under KEMA; governor may issue executive orders to exercise the powers conferred by subsection (c) during the period of a state of disaster emergency declared under K.S.A. 48-924(b); current power in subsection (c)(1) is changed; powers conferred in current subsections (c)(2) through (c)(10) remain unchanged; removes the power conferred in current subsection (c)(11); other restrictions in current law moved to K.S.A. 48-923 (Section 7); each executive order required to meet same requirements

outlined in Section 1 concerning reference to legal authority and other content; current subsection (h) regarding county orders that are less stringent than executive orders moved to Section 1.

Section 10, K.S.A. 48-933, pages 18-19: Compensation for the use, damage, loss or destruction of property under KEMA; bill adds a reference to a declared state of public health disaster emergency under Section 1; bill adds that nothing in this section authorizes compensation for intangible losses.

Section 11, K.S.A. 48-939, page 19: Violations of KEMA, any rule and regulation adopted by the adjutant general under KEMA, and any lawful executive order or proclamation issued under authority of KEMA; bill adds a reference to a proclamation declaring a state of public health disaster emergency under Section 1; violations remain punishable by a civil penalty not to exceed \$2,500 per violation, enforced through an action brought under chapter 60 of the Kansas Statutes Annotated by the attorney general or the county or district attorney in the county in which the violation took place; bill adds that nothing in this section shall prohibit an action from being brought in each county in which a violation took place even if each action arises out of the same occurrence constituting the violation.

Section 12, K.S.A. 48-949, pages 19-20: Definition section for the Kansas intrastate emergency mutual aid act; amends the definition of “emergency responder” to include 911 dispatch centers.

Section 13, K.S.A. 65-101, pages 20-21: Secretary of health and environment shall exercise general supervision of the health of the people of the state and prescribing certain powers and duties; subsection (a)(5) authorizes the secretary to issue orders to 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; bill creates exceptions to this authority in subsections (c), (d) and (e); review of orders by attorney general; person aggrieved by an order may request a hearing in a district court.

Section 14, K.S.A. 65-119, pages 21-22: Duties and powers of local health officers related to infectious or contagious disease; county or joint board of health or local health officer may prohibit public gatherings when necessary for the control of any and all infectious or contagious disease; bill adds an exception to provide that no board of health or local health officer shall prohibit any school district or a school attendance center from operating pursuant to K.S.A. 65-201 and 65-202.

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Section 15, K.S.A. 65-126, page 22: Secretary of health and environment may quarantine certain areas; bill adds that this section shall not apply to any school district or school within any such area during any state of public health disaster emergency declared pursuant to Section 1.

Section 16, K.S.A. 65-201, pages 22-23: Board of county commissioners of each county shall act as the county board of health for the county and each county board shall appoint a person licensed to practice medicine and surgery who shall serve as the local health officer; any order issued by the local health officer shall be reviewed, amended or revoked by the board of county commissioners; person aggrieved by an order may request a hearing to occur within 72 hours, then may request a hearing in a district court.

Section 17, K.S.A. 65-202, pages 23-25: Powers and duties of the local health officer in each county; requirements for orders issued; shall not issue certain orders.

New Section 18, page 25: Severability of this act.

The bill would take effect upon publication in the Kansas register.