

HOUSE BILL No. 2038

By Representative Huebert

1-6

1 AN ACT concerning teachers; creating the educator protection act; relating
2 to excess professional liability insurance coverage for teachers;
3 amending K.S.A. 75-4101 and repealing the existing section.
4

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

6 New Section 1. (a) The provisions of sections 1 through 5, and
7 amendments thereto, shall be known and may be cited as the educator
8 protection act.

9 (b) The purpose of the educator protection act is to establish the
10 Kansas educator liability fund to provide excess professional liability
11 insurance coverage for all teachers and student teachers, subject to the
12 appropriations therefor. The Kansas educator liability fund shall protect
13 against damages for claims arising out of the performance of teachers' and
14 student teachers' duties within the scope of their employment or
15 assignment.

16 New Sec. 2. As used in sections 1 through 5, and amendments
17 thereto:

18 (a) "Commissioner" means the commissioner of insurance.

19 (b) "State board" means the state board of education.

20 (c) "Student teacher" means an individual enrolled as a student in a
21 college or university who holds a valid student teacher certificate issued by
22 the state board.

23 (d) "Teacher" means an individual licensed to practice teaching by the
24 state board.

25 New Sec. 3. (a) There is hereby established in the state treasury the
26 Kansas educator liability fund to be administered by the commissioner of
27 insurance. Moneys in the Kansas educator liability fund shall be expended
28 only for the purposes established in this act, including, but not limited to,
29 the purchase or acquisition of excess professional liability coverage for all
30 teachers and student teachers, and payment of any expenses associated
31 with the administration of the fund. All expenditures from the fund shall be
32 made in accordance with appropriation acts upon warrants of the director
33 of accounts and reports issued pursuant to vouchers approved by the
34 commissioner, or the commissioner's designee, for the purposes set forth in
35 this act.

36 (b) On or before the 10th of each month, the director of accounts and

1 reports shall transfer from the state general fund to the Kansas educator
2 liability fund interest earnings based on:

3 (1) The average daily balance of moneys in the Kansas educator
4 liability fund; and

5 (2) the net earnings rate of the pooled money investment portfolio for
6 the preceding month.

7 New Sec. 4. (a) Professional liability coverage provided under this
8 act shall cover all full-time and part-time teachers and student teachers. No
9 premium, fee or other cost shall be charged to any teacher or student
10 teacher for such coverage.

11 (b) In order to implement the provisions of this act, the commissioner
12 shall:

13 (1) Establish the type or types of insurance and the insurance limits as
14 excess insurance coverage necessary to carry out the purposes of this act;

15 (2) purchase or otherwise acquire the insurance policy or policies
16 with the Kansas educator liability fund as the insured;

17 (3) establish the effective date for which insurance coverage will be
18 provided pursuant to this act;

19 (4) establish the process for the administration of claims filed
20 pursuant to this act;

21 (5) annually recommend to the legislative budget committee the total
22 occurrence basis funding required to satisfy the liabilities arising under
23 this act; and

24 (6) on or before January 1, 2022, adopt rules and regulations
25 necessary to implement and administer the provisions of this act.

26 (c) The commissioner may enter into contracts with insurance
27 companies, financial consultants, actuaries, auditors, investment managers,
28 individual attorneys, law firms and any other consultants or professionals
29 the commissioner deems necessary to effectuate the purposes of this act.

30 New Sec. 5. If any provision of the educator protection act, or the
31 application of any such provision to any person or circumstance, is held
32 invalid, the invalidity shall not affect other provisions or applications of
33 the act that can be given effect without the invalid provision or
34 application, and, to this end, the provisions of the educator protection act
35 are severable.

36 Sec. 6. K.S.A. 75-4101 is hereby amended to read as follows: 75-
37 4101. (a) There is hereby created a committee on surety bonds and
38 insurance, ~~which~~ *that* shall consist of the state treasurer, the attorney
39 general and the commissioner of insurance or their respective designees.
40 The commissioner of insurance shall be the chairperson of the committee
41 and the director of purchases or the director's designee shall be the ex
42 officio secretary. The committee shall meet upon the call of the
43 chairperson and at such other times as the committee shall determine but at

1 least once each month on the second Monday in each month. Meetings
2 shall be held in the office of the commissioner of insurance. The members
3 of the committee shall serve without compensation. The secretary shall be
4 the custodian of all property, records and proceedings of the committee.
5 Except as provided in this section and K.S.A. 74-4925, 74-4927, 75-6501
6 through 75-6511 and 76-749, *and amendments thereto, and section 4*, and
7 amendments thereto, no state agency shall purchase any insurance of any
8 kind or nature or any surety bonds upon state officers or employees, except
9 as provided in this act. Except as otherwise provided in this section, health
10 care coverage and health care services of a health maintenance
11 organization for state officers and employees designated under K.S.A. 75-
12 6501(c), and amendments thereto, shall be provided in accordance with the
13 provisions of K.S.A. 75-6501 through 75-6511, and amendments thereto.

14 (b) The Kansas turnpike authority may purchase group life, health
15 and accident insurance or health care services of a health maintenance
16 organization for its employees or members of the highway patrol assigned,
17 by contract or agreement entered pursuant to K.S.A. 68-2025, and
18 amendments thereto, to police toll or turnpike facilities, independent of the
19 committee on surety bonds and insurance and of the provisions of K.S.A.
20 75-6501 through 75-6511, and amendments thereto. Such authority may
21 purchase liability insurance covering all or any part of its operations and
22 may purchase liability and related insurance upon all vehicles owned or
23 operated by the authority independent of the committee on surety bonds
24 and insurance and such insurance may be purchased without complying
25 with K.S.A. 75-3738 through 75-3744, and amendments thereto. Any
26 board of county commissioners may purchase such insurance or health
27 care services, independent of such committee, for district court officers
28 and employees any part of whose total salary is payable by the county.
29 Nothing in any other provision of the laws of this state shall be construed
30 as prohibiting members of the highway patrol so assigned to police toll or
31 turnpike facilities from receiving compensation in the form of insurance or
32 health maintenance organization coverage as herein authorized.

33 (c) The agencies of the state sponsoring a foster grandparent or senior
34 companion program, or both, shall procure a policy of accident, personal
35 liability and excess automobile liability insurance insuring volunteers
36 participating in such programs against loss in accordance with
37 specifications of federal grant guidelines. Such agencies may purchase
38 such policy of insurance independent of the committee on surety bonds
39 and insurance and without complying with K.S.A. 75-3738 through 75-
40 3744, and amendments thereto.

41 (d) Any state educational institution as defined by K.S.A. 76-711, and
42 amendments thereto, may purchase insurance of any kind or nature except
43 employee health insurance. Such insurance shall be purchased on a

1 competitively bid or competitively negotiated basis in accordance with
2 procedures prescribed by the state board of regents. Such insurance may
3 be purchased independent of the committee on surety bonds and insurance
4 and without complying with K.S.A. 75-3738 through 75-3744, and
5 amendments thereto.

6 (e) (1) The state board of regents may enter into one or more group
7 insurance contracts to provide health and accident insurance coverage or
8 health care services of a health maintenance organization for all students
9 attending a state educational institution as defined in K.S.A. 76-711, and
10 amendments thereto, and such students' dependents, except that such
11 insurance shall not provide coverage for elective procedures that are not
12 medically necessary as determined by a treating physician. The
13 participation by a student in such coverage shall be voluntary. In the case
14 of students who are employed by a state educational institution in a student
15 position, the level of employer contributions toward such coverage shall be
16 determined by the board of regents.

17 (2) The state board of regents is hereby authorized to independently
18 provide, through self-insurance or the purchase of insurance contracts,
19 health care benefits for employees of a state educational institution, as
20 such term is defined in K.S.A. 76-711, and amendments thereto, when the
21 state health care benefits program is insufficient to satisfy the requirements
22 of 22 C.F.R. § 62.14, as in effect upon the effective date of this section.
23 Such healthcare benefits shall be limited to only those for whom the state
24 health care benefits program does not meet federal requirements.

25 (3) The state board of regents may purchase cybersecurity insurance
26 as it deems necessary to protect student records, labor information and
27 other statutorily protected data that the board maintains, independent of the
28 committee on surety bonds and insurance and without complying with the
29 provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.
30 As used in this paragraph, "cybersecurity insurance" includes, but is not
31 limited to, first-party coverage against losses such as data destruction,
32 denial of service attacks, theft, hacking and liability coverage guaranteeing
33 compensation for damages from errors such as the failure to safeguard
34 data.

35 (4) The state board of regents may adopt rules and regulations
36 necessary to administer and implement the provisions of this section.

37 Sec. 7. K.S.A. 75-4101 is hereby repealed.

38 Sec. 8. This act shall take effect and be in force from and after its
39 publication in the statute book.