

Substitute for SENATE BILL No. 273

By Committee on Judiciary

2-26

1 AN ACT concerning governmental response to certain emergencies;
2 relating to the Kansas emergency management act; modifying the
3 procedure for the declaration and extension of a state of disaster
4 emergency; limiting powers granted to the governor during a state of
5 disaster emergency; defining public health disasters and establishing
6 special provisions therefor; creating the joint committee on emergency
7 management and prescribing powers and duties; prescribing powers,
8 duties and functions of the secretary of health and environment, city
9 and county government, the board of education of each school district,
10 the governing body of each community college and the governing body
11 of each technical college to control the spread of disease; establishing
12 judicial review thereof; prescribing certain reporting requirements for
13 the board of education of each school district, the state board of
14 education and the Kansas state department of education; limiting
15 powers of city health officers and local health officers; amending
16 K.S.A. 48-904, 48-923, 48-933, 65-101, 65-119 and 65-126 and K.S.A.
17 2019 Supp. 48-925, as amended by section 4 of 2021 Senate Bill No.
18 14, and K.S.A. 2020 Supp. 48-924, as amended by section 2 of 2021
19 Senate Bill No. 14, 48-939, 48-949, 65-201 and 65-202 and repealing
20 the existing sections; also repealing K.S.A. 2019 Supp. 48-925, as
21 amended by section 5 of 2021 Senate Bill No. 14, and K.S.A. 2020
22 Supp. 48-925b.

23

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

25 New Section 1. (a) The governor shall be responsible for meeting the
26 dangers to the state and people presented by public health disasters. The
27 governor's primary responsibilities during a public health disaster are to
28 provide guidance to the public and to industry, direct state emergency
29 operations and to seek and distribute funding and assistance to those
30 responding to the disaster.

31 (b) (1) The governor, upon finding that a public health disaster has
32 occurred or that occurrence or the threat thereof is imminent, may issue a
33 proclamation declaring a state of public health disaster emergency as
34 provided in this section.

35 (2) The state of public health disaster emergency so declared shall
36 continue until the governor finds that the threat or danger of a public

1 health disaster has passed or the public health disaster has been dealt with
2 to the extent that emergency conditions no longer exist. Upon making such
3 findings, the governor shall terminate the state of public health disaster
4 emergency by proclamation. Except as provided in paragraph (3), no state
5 of public health disaster emergency may continue for longer than 15 days
6 unless ratified by concurrent resolution of the legislature.

7 (3) When the legislature is not in session or is adjourned during
8 session for three or more days, and upon specific application by the
9 governor to the joint committee on emergency management established by
10 section 2, and amendments thereto, and an affirmative vote of a majority
11 of the joint committee, a state of public health disaster emergency may be
12 extended for specified periods not to exceed 30 days each.

13 (4) At any time, the legislature, by concurrent resolution, may require
14 the governor to terminate a state of public health disaster emergency. Upon
15 such action by the legislature, the governor shall issue a proclamation
16 terminating the state of public health disaster emergency.

17 (5) (A) The governor shall not issue a proclamation declaring a state
18 of public health disaster emergency for the same or similar public health
19 disaster if:

20 (i) The legislature did not ratify and continue the original state of
21 public health disaster emergency declaration;

22 (ii) the joint committee on emergency management did not continue
23 or extend the original state of public health disaster emergency declaration;
24 or

25 (iii) the legislature by concurrent resolution required the governor to
26 terminate the original state of public health disaster emergency declaration.

27 (B) For the purposes of this subsection, a public health disaster is the
28 same or similar if such disaster is based on the same or similar infectious
29 or contagious disease or outbreak named in the original state of public
30 health disaster emergency declaration. A public health disaster is not the
31 same or similar if such disaster is based on a:

32 (i) New or more virulent strain of the disease named in the original
33 state of public health disaster emergency declaration;

34 (ii) subsequent outbreak of the disease named in the original state of
35 public health disaster emergency declaration; or

36 (iii) new mode or means of transmission of such disease not
37 identified in the original state of public health disaster emergency
38 declaration.

39 (6) Any proclamation declaring or terminating a state of public health
40 disaster emergency issued under this section shall indicate the nature of the
41 public health disaster, the area or areas of the state threatened or affected
42 by the disaster and the conditions that have brought about, or that make
43 possible the termination of, the state of public health disaster emergency.

1 When indicating the nature of the public health disaster, the proclamation
2 shall include, but is not limited to, the name of the disease and any known
3 means of transmission for such disease. Each such proclamation shall be
4 disseminated promptly by means calculated to bring its contents to the
5 attention of the general public and, unless the circumstances attendant
6 upon the disaster prevent such action, each such proclamation shall be
7 filed promptly with the division of emergency management, the office of
8 the secretary of state, the chief justice of the supreme court and each city
9 clerk, county clerk and board of education of a school district, as the case
10 may be, in the area or areas of the state to which such proclamation
11 applies.

12 (c) In the event of the absence of the governor from the state or the
13 existence of any constitutional disability of the governor, an officer
14 specified in K.S.A. 48-1204, and amendments thereto, in the order of
15 succession provided by that section, may issue a proclamation declaring a
16 state of public health disaster emergency in the manner provided in and
17 subject to the provisions of subsection (b). During a state of public health
18 disaster emergency declared pursuant to this subsection, such officer may
19 exercise the powers conferred upon the governor by this section. If a
20 preceding officer in the order of succession becomes able and available,
21 the authority of the officer exercising such powers shall terminate and such
22 powers shall be conferred upon the preceding officer. Upon the return of
23 the governor to the state or the removal of the constitutional disability of
24 the governor, the authority of an officer to exercise the powers conferred
25 by this section shall terminate immediately and the governor shall resume
26 the full powers of the office. Any such state of public health disaster
27 emergency and any actions taken by an officer under this subsection shall
28 continue and shall have full force and effect as authorized by law unless
29 modified or terminated in the manner prescribed by law.

30 (d) A proclamation declaring a state of public health disaster
31 emergency under this section shall activate the disaster response and
32 recovery aspects of the state disaster emergency plan and of any local and
33 interjurisdictional disaster plans applicable to the area or areas of the state
34 and any political subdivisions thereof affected by the proclamation. Such
35 proclamation shall constitute the authority necessary for the deployment
36 and use of any forces to which the plan or plans apply and for use or
37 distribution of any supplies, equipment, materials or facilities assembled,
38 stockpiled or arranged to be made available pursuant to the Kansas
39 emergency management act during a disaster.

40 (e) (1) The governor may issue executive orders to exercise the
41 powers conferred by subsection (f) during the period of a state of public
42 health disaster emergency declared under this section.

43 (2) Prior to issuing an executive order under this section, the

1 governor shall submit the proposed executive order to the attorney general
2 for review. The attorney general shall consider whether the proposed
3 executive order is consistent with all statutory and constitutional
4 restrictions, including, but not limited to, K.S.A. 48-923, and amendments
5 thereto, meets the requirements of this section, identifies a specific and
6 valid source of legal authority for the proposed actions and, if such order
7 affects more than one county, whether such order is narrowly tailored to
8 conditions in individual counties or provides specific reasons such order is
9 not narrowly tailored to such conditions. The attorney general shall
10 provide an opinion to the governor within 24 hours of receipt of the
11 proposed executive order. The opinion shall be published on the attorney
12 general's website and shall become an attachment to the proposed
13 executive order.

14 (3) At the same time the proposed executive order is submitted to the
15 attorney general pursuant to paragraph (2), the governor shall submit such
16 order to the chairperson and vice chairperson of the joint committee on
17 emergency management established by section 2, and amendments thereto.
18 Not less than 24 hours after receipt of the proposed executive order, or at
19 any time after the attorney general provides an opinion on such order if the
20 attorney general completes such review in less than 24 hours, the
21 chairperson of the joint committee shall call a meeting of the joint
22 committee for the purposes of reviewing such order. The governor may
23 issue the proposed executive order if such order is approved by an
24 affirmative vote of a majority of the joint committee. The proposed
25 executive order shall not be issued and shall be null and void if such order
26 fails to receive an affirmative vote of a majority of the joint committee.

27 (4) Executive orders issued under this section:

28 (A) Shall be null and void after the period of a state of public health
29 disaster emergency declared under this section has ended; and

30 (B) may be revoked at any time by concurrent resolution of the
31 legislature.

32 (f) During a state of public health disaster emergency declared under
33 this section, in addition to any other powers conferred upon the governor
34 by law and subject to the provisions of this section, the governor may:

35 (1) Modify the provisions of any order, policy or rule and regulation
36 of any state agency prescribing the procedures for conduct of state
37 business if strict compliance with the provisions of such order, policy or
38 rule and regulation would prevent or delay the necessary action in coping
39 with the disaster;

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

42 (3) transfer the supervision, personnel or functions of state
43 departments and agencies or units thereof for the purpose of performing or

1 facilitating emergency management activities;

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

6 (5) facilitate the cooperation and assistance of state and local
7 governmental agencies and officials.

8 (g) (1) The governor shall exercise the powers conferred by
9 subsection (f) by issuance of executive orders under subsection (e).

10 (2) Each executive order issued pursuant to the authority granted by
11 subsection (e) shall specify the provision or provisions of subsection (f) by
12 specific reference to each paragraph of subsection (f) that confers the
13 power under which such order was issued. Each executive order issued
14 pursuant to other legal authority shall specify the source of such authority.

15 (3) Each executive order issued pursuant to the authority granted by
16 subsection (e) that modifies the provisions of any order, policy or rule and
17 regulation shall specify the order, policy or rule and regulation being
18 modified in such order. Any such modification shall be consistent with the
19 statutory section or sections implemented or interpreted by such order,
20 policy or rule and regulation and the authority pursuant to which such
21 order, policy or rule and regulation, or any part thereof, was adopted.

22 (4) If an executive order affects more than one county, such order
23 shall be narrowly tailored to conditions in individual counties or provide
24 specific reasons such order is not narrowly tailored to such conditions.

25 (5) The adjutant general, subject to the direction of the governor, shall
26 administer such orders.

27 (h) (1) The board of county commissioners of any county may issue
28 an order relating to public health that includes provisions that are less
29 stringent than the provisions of an executive order issued by the governor
30 under this section that affects more than one county. Any board of county
31 commissioners issuing such an order shall make the following findings
32 and include such findings in the order:

33 (A) The board has consulted with such board's local health officer or
34 other local health officials regarding the governor's executive order;

35 (B) following such consultation, has determined that implementation
36 of the full scope of the provisions in the governor's executive order are not
37 necessary to protect the public health and safety of the county; and

38 (C) all other relevant findings to support the board's decision.

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

42 (i) This section shall be a part of and supplemental to the Kansas
43 emergency management act.

1 New Sec. 2. (a) (1) There is hereby established a joint committee on
2 emergency management consisting of five members of the senate and five
3 members of the house of representatives. Such members shall be as
4 follows:

- 5 (A) The president of the senate;
- 6 (B) the vice president of the senate;
- 7 (C) the majority leader of the senate;
- 8 (D) the minority leader of the senate;
- 9 (E) one member of the senate appointed by the president of the
10 senate;
- 11 (F) the speaker of the house of representatives;
- 12 (G) the speaker pro tem of the house of representatives;
- 13 (H) the majority leader of the house of representatives;
- 14 (I) the minority leader of the house of representatives; and
- 15 (J) one member of the house of representatives appointed by the
16 speaker of the house of representatives.

17 (2) Each congressional district in the state of Kansas shall be
18 represented on the joint committee by at least one member who is a
19 resident of the district, to the greatest extent possible.

20 (3) The president of the senate shall designate a senator member to be
21 chairperson or vice chairperson, and the speaker of the house of
22 representatives shall designate a representative member to be the
23 chairperson or vice chairperson as provided in this paragraph. In odd-
24 numbered years, the chairperson of the joint committee shall be the
25 designated member of the senate and the vice chairperson shall be the
26 designated member of the house of representatives from the convening of
27 the regular session in that year until the convening of the regular session in
28 the next ensuing year. In even-numbered years, the chairperson of the joint
29 committee shall be the designated member of the house of representatives
30 and the vice chairperson shall be the designated member from the senate
31 from the convening of the regular session of that year until the convening
32 of the regular session of the next ensuing year. The vice chairperson shall
33 exercise all of the powers of the chairperson in the absence of the
34 chairperson.

35 (b) The joint committee shall meet at any time on call of the
36 chairperson. Meetings of the joint committee may be conducted by
37 electronic audio-visual communication when the chairperson determines
38 such action is necessary. Members of the joint committee shall receive
39 compensation, travel expenses and subsistence expenses or allowances as
40 provided in K.S.A. 75-3212, and amendments thereto, when attending
41 meetings of such committee. Amounts paid under authority of this section
42 shall be paid from appropriations for legislative expense and vouchers
43 therefor shall be prepared by the director of legislative administrative

1 services and approved by the chairperson or vice chairperson of the
2 legislative coordinating council.

3 (c) A quorum of the joint committee shall be six members. All actions
4 of the joint committee shall be taken by a majority of the members.

5 (d) The joint committee may introduce such legislation as it deems
6 necessary in performing its functions.

7 (e) The staff of the office of revisor of statutes, the legislative
8 research department, the division of post audit and the division of
9 legislative administrative services shall provide such assistance as may be
10 requested by the joint committee.

11 (f) In addition to other powers and duties authorized or prescribed by
12 law or by the legislative coordinating council, the joint committee shall
13 have the authority to:

14 (1) Perform an inquiry, study or investigation for the legislature,
15 pursuant to K.S.A. 46-1001 et seq., and amendments thereto, related to
16 emergency management; and

17 (2) require reports and testimony from the governor, or the governor's
18 designee, the director of the budget, the adjutant general, the state board of
19 education, the secretary of health and environment and any other state or
20 local official with information relevant to emergency management or the
21 powers and duties of the joint committee.

22 New Sec. 3. (a) (1) The governing body of a city may use only
23 accepted scientific means as justification to issue an order to prevent the
24 spread of an infectious, contagious or communicable disease. Any such
25 order, including orders issued as a result of an executive order of the
26 governor, on behalf of a city regarding the remediation of any such disease
27 shall include justification of the accepted scientific means used for such
28 remediation.

29 (2) The governing body of a city shall not issue an order that:

30 (A) Substantially burdens or inhibits the gathering or movement of
31 individuals or operation of any religious, civic, business or commercial
32 activity, whether for-profit or not-for-profit, unless such order includes
33 justification of the accepted scientific reasons for such order and how such
34 order is narrowly tailored to accomplish remediation of such infectious or
35 contagious disease; or

36 (B) burdens or inhibits the operation of any religious gathering or
37 activity.

38 (3) The governing body may issue non-binding guidance and
39 information for the conduct of gatherings or activities described in
40 paragraph (2).

41 (4) Any person aggrieved by an order issued by a governing body of
42 a city under this subsection may request a hearing in a district court in
43 accordance with section 4, and amendments thereto.

1 (b) (1) Any recommendation issued by a city health officer appointed
2 by the governing body of a city, including recommendations issued as a
3 result of an executive order of the governor, shall be reviewed by the
4 governing body of the city affected by such recommendation at a meeting
5 of the governing body. If an order is subsequently issued by the governing
6 body, such order shall include an expiration date set by the governing body
7 and may be amended or revoked at an earlier date by a majority vote of the
8 governing body. Any meeting of city government discussing such order,
9 including any hearing by the governing body of a city under paragraph (2),
10 shall be open to the public in accordance with the open meetings act,
11 K.S.A. 75-4317 et seq., and amendments thereto, and may be conducted
12 by electronic audio-visual communication when necessary to secure the
13 health and safety of the public and city government officials and
14 employees.

15 (2) Upon request by a person aggrieved by an order issued by the
16 governing body of a city, the governing body of the city shall conduct a
17 hearing within 72 hours after receipt of such request for the purposes of
18 reviewing, amending or revoking such order as provided by paragraph (1).

19 (3) Any person aggrieved by a decision of the governing body of a
20 city under this subsection may request a hearing in a district court in
21 accordance with section 4, and amendments thereto.

22 (c) Any order issued under this section shall be provided to the
23 secretary of health and environment.

24 (d) Nothing in this section shall be construed to require the governing
25 body of a city to appoint a city health officer or to change the powers,
26 duties and functions of any such city health officer, except as provided by
27 this section.

28 (e) As used in this section, the term "accepted scientific" means
29 methods of control employed and intended to remediate infectious,
30 contagious or communicable disease that are acknowledged as effective by
31 high-quality scientific data that includes systematic reviews of completed,
32 high-quality, randomized controlled trials.

33 New Sec. 4. (a) (1) A person aggrieved by an order issued by the
34 governing body of a city as described in section 3, and amendments
35 thereto, may contest such order by requesting a hearing in the district court
36 of the county where such city is located or in which the person resides.

37 (2) A person aggrieved by an order issued by a board of county
38 commissioners under K.S.A. 65-201 or 65-202, and amendments thereto,
39 may contest such order by requesting a hearing in the district court of the
40 county where the order was issued or in which the person resides.

41 (3) A person aggrieved by an action taken or an order issued by the
42 secretary of health and environment under K.S.A. 65-101(a)(5), and
43 amendments thereto, may contest such action or order by requesting a

1 hearing in the district court of the county in which the person resides or in
2 the district court of Shawnee county, Kansas.

3 (4) A person aggrieved by an action taken, an order issued or a policy
4 adopted by the board of education of a school district as described in
5 section 5, and amendments thereto, or by the governing body of a
6 community college or technical college as described in section 6, and
7 amendments thereto, may contest such action, order or policy by
8 requesting a hearing in the district court of the county where such school
9 district or college is located or in which the person resides.

10 (b) A request for a hearing under this section shall be made through
11 an action brought under chapter 60 of the Kansas Statutes Annotated, and
12 amendments thereto. Such request shall not stay or enjoin the contested
13 action, order or policy.

14 (c) (1) Upon receipt of a request for a hearing under this section, the
15 district court shall schedule a hearing and give notice of such hearing to
16 the aggrieved party within 72 hours after receipt of the request. Such
17 hearing shall occur within 10 days after receipt of the request.

18 (2) The district court shall not extend the time for a hearing under any
19 circumstances.

20 (3) Notwithstanding any other provisions of law to the contrary, the
21 chief justice of the Kansas supreme court may issue an order to authorize
22 the use of two-way electronic audio-visual communication for such
23 hearing and related court proceedings when the chief justice determines
24 such action is necessary.

25 (d) The district court shall grant the request for relief made by the
26 aggrieved party unless by a showing of clear and convincing evidence the
27 contested action, order or policy of the governmental entity was necessary,
28 reasonable, supported by accepted scientific practice and intended to
29 remediate or reduce the spread of the infectious or contagious disease. In
30 making such findings, the court shall consider whether the contested
31 action, order or policy of the governmental entity considered the means of
32 transmission of the disease, the communicability of the disease and, to the
33 extent possible, the degree of public exposure to the disease. Relief under
34 this section shall not include any compensation of any kind.

35 (e) As used in this section, the term "accepted scientific" means
36 methods of control employed and intended to remediate infectious,
37 contagious or communicable disease that are acknowledged as effective by
38 high-quality scientific data that includes systematic reviews of completed,
39 high-quality, randomized controlled trials.

40 New Sec. 5. (a) (1) In the event of a state of public health disaster
41 emergency declared by the governor pursuant to section 1, and
42 amendments thereto, only the board of education of a school district shall
43 have the authority to take any action, issue any order or adopt any policy

1 that affects the operation of any school or attendance center of such school
2 district, including, but not limited to, any action, order or policy that:

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

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

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

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

17 (b) (1) Prior to taking any action, issuing any order or adopting any
18 policy in response to a state of public health disaster emergency as
19 provided in subsection (a)(1), a board of education of a school district shall
20 receive and consider any relevant accepted scientific or health data and
21 shall make evidence-informed decisions. The board shall document the
22 scientific justification the board relied upon in determining whether to take
23 such action, issue such order or adopt such policy. In any determination to
24 take any action, issue any order or adopt any policy, each board of
25 education shall include in any minutes or other documentation of the
26 action taken, such data, evidence, means or justification for the action
27 taken, order issued or policy adopted pursuant to subsection (a)(1) to
28 prevent the introduction or spread of infectious or contagious disease.

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

36 (c) (1) An employee, a student or the parent or guardian of a student
37 aggrieved by an action taken, order issued or policy adopted by the board
38 of education of a school district pursuant to subsection (a)(1), or an action
39 of any employee of a school district violating any such action, order or
40 policy, may request a hearing by such board of education to contest such
41 action, order or policy. Any such request shall not stay or enjoin such
42 action, order or policy.

43 (2) Upon receipt of a request under paragraph (1), the board of

1 education shall conduct a hearing within 72 hours of receiving such
2 request for the purposes of reviewing, amending or revoking such action,
3 order or policy. The board of education may extend the time for a hearing
4 if extraordinary circumstances exist that justify the extension. In making
5 the extension, the board of education shall consider the rights of the
6 aggrieved party, the protection of the public health, the severity of the
7 emergency and the availability, if necessary, of any witnesses and
8 evidence.

9 (3) An employee, a student or the parent or guardian of a student
10 aggrieved by a decision of the board of education under paragraph (2) may
11 request a hearing in a district court in accordance with section 4, and
12 amendments thereto.

13 (d) (1) In any school year in which there is a state of public health
14 disaster emergency declared by the governor pursuant to section 1, and
15 amendments thereto, the board of education of each school district shall
16 provide to the state board of education information regarding any action
17 taken, orders issued or policies adopted to mitigate such emergency and its
18 impact on the operation of any school of the school district. The board of
19 education shall provide such information to the state board in a manner
20 determined by the state board each time the board of education takes such
21 action, issues such orders or adopts such policies.

22 (2) At least once every two weeks in any such school year, the state
23 board shall compile the information received pursuant to paragraph (1) and
24 publish a year-to-date compilation on the Kansas state department of
25 education's website.

26 (e) As used in this section, the term "accepted scientific" means
27 methods of control employed and intended to remediate infectious,
28 contagious or communicable disease that are acknowledged as effective by
29 high-quality scientific data that includes systematic reviews of completed,
30 high-quality, randomized controlled trials.

31 New Sec. 6. (a) (1) In the event of a state of public health disaster
32 emergency declared by the governor pursuant to section 1, and
33 amendments thereto, only the governing body of a community college, as
34 established pursuant to K.S.A. 71-201, and amendments thereto, or the
35 governing body of a technical college, as established pursuant to K.S.A.
36 74-32,452, and amendments thereto, shall have the authority to take any
37 action, issue any order or adopt any policy that affects the operation of the
38 community college or technical college governed by such governing body,
39 including, but not limited to, any action, order or policy that:

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

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

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

3 (2) During any such state of public health disaster emergency, the
4 state board of regents, the governor, the department of health and
5 environment, a local health officer, a city health officer, the Kansas
6 association of community college trustees, the Kansas technical college
7 association or any other state or local unit of government may provide
8 guidance, consultation or other assistance to the governing body of a
9 community college or technical college, but shall not take any action that
10 affects the operation of any such college.

11 (b) (1) Prior to taking any action, issuing any order or adopting any
12 policy in response to a state of public health disaster emergency as
13 provided in subsection (a)(1), the governing body of a community college
14 or technical college shall receive and consider any relevant accepted
15 scientific or health data and shall make evidence-informed decisions. The
16 governing body shall document the scientific justification such governing
17 body relied upon in determining whether to take such action, issue such
18 order or adopt such policy. In any determination to take any action, issue
19 any order or adopt any policy, each governing body shall include in any
20 minutes or other documentation of the action taken such data, evidence,
21 means or justification for the action taken, order issued or policy adopted
22 pursuant to subsection (a)(1) to prevent the introduction or spread of
23 infectious or contagious disease.

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

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

39 (2) Within 72 hours of receiving a request under paragraph (1), the
40 governing body shall notify the aggrieved party of the scheduled hearing
41 date. In scheduling such hearing for the purposes of reviewing, amending
42 or revoking such action, order or policy, the governing body shall consider
43 the rights of the aggrieved party, the protection of the public health, the

1 severity of the emergency and the availability, if necessary, of any
2 witnesses and evidence.

3 (3) An employee or a student aggrieved by a decision of the
4 governing body under paragraph (2) may request a hearing in a district
5 court in accordance with section 4, and amendments thereto.

6 (d) (1) In any school year in which there is a state of public health
7 disaster emergency declared by the governor pursuant to section 1, and
8 amendments thereto, the governing body of each community college and
9 technical college shall provide to the standing committees on education in
10 the senate and the house of representatives information regarding any
11 action taken, orders issued or policies adopted to mitigate such emergency
12 and its impact on the operation of any community college or technical
13 college.

14 (2) At least once each month in any such school year, each
15 community college and technical college shall publish a year-to-date
16 compilation of all actions taken, orders issued or policies adopted as
17 described in this subsection on such college's website.

18 New Sec. 7. No expenditure shall be made from and no obligation
19 shall be incurred against any federal grant or other federal receipt received
20 by the state of Kansas for a state of disaster emergency declared pursuant
21 to the Kansas emergency management act that has not been previously
22 appropriated or reappropriated by an appropriation act of the legislature,
23 until the joint committee on emergency management has authorized the
24 requesting state agency to make expenditures therefrom. Such requests
25 may be approved by a majority of the members of the joint committee on
26 emergency management acting on this matter, which is hereby
27 characterized as a matter of legislative delegation, except that such
28 disbursements and expenditures may also be approved while the
29 legislature is in session. The joint committee on emergency management is
30 hereby authorized to approve the requests for such purposes. Upon receipt
31 of such approval by the joint committee on emergency management, the
32 requesting state agency is authorized to expend all approved moneys
33 lawfully credited to and available in such fund or funds during the fiscal
34 year or years so approved.

35 Sec. 8. K.S.A. 48-904 is hereby amended to read as follows: 48-904.
36 As used in ~~this~~ *the Kansas emergency management act*:

37 (a) "Emergency management" means the preparation for and the
38 carrying out of all emergency functions, other than functions for which
39 military forces or other federal agencies are primarily responsible, to
40 prevent, minimize and repair injury and damage resulting from disasters;

41 (b) "adjutant general" means the adjutant general of the state of
42 Kansas;

43 (c) "division of emergency management" means the division of

1 emergency management created in the office of the adjutant general by
2 K.S.A. 48-905, and amendments thereto;

3 (d) "disaster" means the occurrence or imminent threat of widespread
4 or severe damage, injury or loss of life or property resulting from any
5 natural or manmade cause, including, but not limited to, fire, flood,
6 earthquake, wind, storm, ~~epidemics~~, *foodborne* contagious or infectious
7 disease, air contamination, blight, drought, infestation, explosion, riot,
8 terrorism or hostile military or paramilitary action. "*Disaster*" does not
9 include a public health disaster;

10 (e) "*public health disaster*" means the occurrence or imminent threat
11 of widespread or severe injury or loss of life resulting from any infectious
12 or contagious disease that is human-to-human transmissible, including a
13 disease that is transmissible through a medium or originates in a non-
14 human source and becomes human-to-human transmissible, but not
15 including foodborne illness;

16 (f) "unorganized militia" means all able-bodied male and female
17 persons between the ages of 16 and 50 years;

18 ~~(f)~~(g) "state disaster emergency plan" means the plan prepared and
19 maintained by the division of emergency management pursuant to K.S.A.
20 48-926, and amendments thereto;

21 ~~(g)~~(h) "local and interjurisdictional disaster emergency plans" means
22 all disaster emergency plans developed and promulgated by county, city
23 and interjurisdictional disaster agencies pursuant to K.S.A. 48-929, and
24 amendments thereto; and

25 ~~(h)~~(i) "hazardous material" means any substance or material in a
26 quantity or form which may be harmful or injurious to the health and
27 safety of humans, animals, crops or property when released into the
28 environment. Hazardous material includes, but is not limited to,
29 explosives, radioactive materials, disease-causing agents, flammable
30 liquids, solids or gases, combustible liquids, poisons, poisonous gases,
31 oxidizing materials, corrosive materials, irritants, nonflammable gases,
32 cryogenics and blasting agents.

33 Sec. 9. K.S.A. 48-923 is hereby amended to read as follows: 48-923.

34 (a) Nothing in the *Kansas* emergency management act shall be construed
35 to:

36 ~~(a)~~(1) Interfere with the course or conduct of a labor dispute, except
37 that actions otherwise authorized by this act may be taken when necessary
38 to forestall or mitigate imminent or existing danger to public health or
39 safety;

40 ~~(b)~~(2) interfere with dissemination of news or comment on public
41 affairs; but any communications facility or organization, including but not
42 limited to radio and television stations, wire services and newspapers, may
43 be required by the governor to transmit or print public service messages,

1 information or instructions in connection with a declared state of disaster
2 emergency *or state of public health disaster emergency*;

3 ~~(e)~~(3) affect, other than during a declared state of disaster emergency
4 *or state of public health disaster emergency*, the jurisdiction or
5 responsibilities of police forces, fire fighting forces, units of the armed
6 forces of the United States, or of any personnel thereof, when on active
7 duty; but the state disaster emergency plan and local and interjurisdictional
8 disaster emergency plans shall place reliance upon such forces which are
9 available for performance of functions related to a declared state of
10 disaster emergency *or state of public health disaster emergency*; or

11 ~~(d)~~(4) limit, modify or abridge the authority of the governor to
12 proclaim martial law ~~or exercise any other powers vested in the governor~~
13 ~~under the constitution, statutes or common law of this state independent of,~~
14 ~~or in conjunction with, any provisions of this act.~~

15 (b) *Notwithstanding any provision of law to the contrary, the*
16 *governor shall not have the power or authority to temporarily or*
17 *permanently:*

18 (1) *Alter or modify the Kansas criminal code or the Kansas code of*
19 *criminal procedure;*

20 (2) *take any action that imposes limitations on gatherings or other*
21 *activities of a religious nature;*

22 (3) *limit or otherwise restrict the sale, purchase, transfer, ownership,*
23 *storage, carrying or transporting of firearms or ammunition, or any*
24 *component or combination thereof, including any components or*
25 *combination thereof used in the manufacture of firearms or ammunition,*
26 *or seize or authorize the seizure of any firearms or ammunition, or any*
27 *component or combination thereof, except as otherwise permitted by state*
28 *or federal law;*

29 (4) *alter or modify any provisions of the election laws of the state,*
30 *including, but not limited to, the method by which elections are conducted*
31 *or the timing of such elections;*

32 (5) *take any action that gives preferential treatment for elective*
33 *abortion as defined in K.S.A. 65-4a01, and amendments thereto, over any*
34 *other elective medical procedure or for an abortion provider over any*
35 *other business or commercial activity; or*

36 (6) *during a state of public health disaster emergency declared under*
37 *section 1, and amendments thereto:*

38 (A) *Take any action that substantially burdens or inhibits the*
39 *gathering or movement of individuals or operation of any religious, civic,*
40 *business or commercial activity, whether for-profit or not-for-profit;*

41 (B) *deem any business or commercial activity non-essential;*

42 (C) *direct or permit any public official of the state or any*
43 *municipality to mandate immunizations related to the disease named in*

1 *such public health disaster emergency declaration; or*

2 *(D) restrict the ability of a facility licensed under chapter 65 of the*
3 *Kansas Statutes Annotated, and amendments thereto, to provide*
4 *healthcare services. Any restrictions shall be determined solely by the*
5 *healthcare facility or healthcare provider.*

6 *(c) The governor shall perform and exercise all functions, powers*
7 *and duties in conformity with the constitution and the bill of rights of the*
8 *state of Kansas.*

9 Sec. 10. K.S.A. 2020 Supp. 48-924, as amended by section 2 of 2021
10 Senate Bill No. 14, is hereby amended to read as follows: 48-924. (a) The
11 governor shall be responsible for meeting the dangers to the state and
12 people presented by disasters.

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

17 (2) In addition to or instead of the proclamation authorized by K.S.A.
18 47-611, and amendments thereto, the governor, upon a finding or when
19 notified pursuant to K.S.A. 47-611, and amendments thereto, that a
20 quarantine or other regulations are necessary to prevent the spread among
21 domestic animals of any contagious or infectious disease, may issue a
22 proclamation declaring a state of disaster emergency. In addition to or
23 instead of any actions pursuant to the provisions of K.S.A. 2-2114, and
24 amendments thereto, the governor, upon a finding or when notified
25 pursuant to K.S.A. 2-2112 et seq., and amendments thereto, that a
26 quarantine or other regulations are necessary to prevent the spread among
27 plants, raw agricultural commodities, animal feed or processed food of any
28 contagious or infectious disease, may issue a proclamation declaring a
29 state of disaster emergency.

30 (3) The state of disaster emergency—~~so~~ declared *under this section*
31 *shall continue until the governor finds that the threat or danger of disaster*
32 *has passed, or the disaster has been dealt with to the extent that emergency*
33 *conditions no longer exist. Upon making such findings the governor shall*
34 *terminate the state of disaster emergency by proclamation, but except as*
35 *provided in paragraph (4), no state of disaster emergency may continue for*
36 *longer than 15 days unless ratified by concurrent resolution of the*
37 *legislature, with the single exception that upon specific application by the*
38 *governor to the—state finance council joint committee on emergency*
39 *management established by section 2, and amendments thereto, and an*
40 *affirmative vote of a majority of the legislative members thereof the joint*
41 *committee in accordance with the provisions of section 2, and amendments*
42 *thereto, a state of disaster emergency may be extended once for a specified*
43 *period not to exceed 30 days beyond such 15-day period.*

1 (4) If the state of disaster emergency is proclaimed pursuant to
2 paragraph (2), the governor shall terminate the state of disaster emergency
3 by proclamation within 15 days, unless ratified by concurrent resolution of
4 the legislature, except that when the legislature is not in session *or is*
5 *adjourned during session for three or more days*, and upon specific
6 application by the governor to the ~~state finance council joint committee on~~
7 ~~emergency management established by section 2, and amendments thereto,~~
8 and an affirmative vote of ~~a majority of the legislative members thereof~~
9 ~~the joint committee in accordance with the provisions of section 2, and~~
10 ~~amendments thereto~~, a state of disaster emergency may be extended for a
11 specified period not to exceed 30 days. The ~~state finance council joint~~
12 ~~committee~~ may authorize additional extensions of the state of disaster
13 emergency by a unanimous vote of ~~the legislative members thereof~~ for
14 specified periods not to exceed 30 days each. Such state of disaster
15 emergency shall be terminated on the 15th day of the next regular
16 legislative session following the initial date of the state of disaster
17 emergency unless ratified by concurrent resolution of the legislature.

18 ~~(5) The state of disaster emergency described in K.S.A. 2020 Supp.~~
19 ~~48-924b, and amendments thereto, shall terminate on September 15, 2020,~~
20 ~~as provided in K.S.A. 2020 Supp. 48-924b, and amendments thereto,~~
21 ~~except that when the legislature is not in session or is adjourned during~~
22 ~~session for three or more days, and upon specific application by the~~
23 ~~governor to the state finance council and an affirmative vote of at least six~~
24 ~~of the legislative members of the council, this state of disaster emergency~~
25 ~~may be extended for specified periods not to exceed 30 days each. No such~~
26 ~~extension granted by the state finance council shall continue past March~~
27 ~~31, 2021.~~

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

32 ~~(7)~~(6) Any proclamation declaring or terminating a state of disaster
33 emergency ~~which is issued under this subsection~~ *section* shall indicate the
34 nature of the disaster, the area or areas *of the state* threatened or affected
35 by the disaster and the conditions ~~which that~~ *that* have brought about, or ~~which~~
36 *that* make possible the termination of, the state of disaster emergency.
37 Each such proclamation shall be disseminated promptly by means
38 calculated to bring its contents to the attention of the general public and,
39 unless the circumstances attendant upon the disaster prevent the same,
40 each such proclamation shall be filed promptly with the division of
41 emergency management, the office of the secretary of state and each city
42 clerk or county clerk, as the case may be, in the area *or areas of the state*
43 to which such proclamation applies.

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

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

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

37 Sec. 11. K.S.A. 2019 Supp. 48-925, as amended by section 4 of 2021
38 Senate Bill No. 14, is hereby amended to read as follows: 48-925. (a)
39 During any state of disaster emergency declared under K.S.A. 48-924, and
40 amendments thereto, the governor shall be commander-in-chief of the
41 organized and unorganized militia and of all other forces available for
42 emergency duty. To the greatest extent practicable, the governor shall
43 delegate or assign command authority by prior arrangement, embodied in

1 appropriate executive orders or in rules and regulations of the adjutant
2 general, but nothing herein shall restrict the authority of the governor to do
3 so by orders issued at the time of a disaster.

4 ~~(b) (1) Under the provisions of this act and for the implementation of~~
5 ~~this act,~~ The governor may issue *executive* orders to exercise the powers
6 conferred by subsection (c) ~~that have the force and effect of law~~ during the
7 period of a state of disaster emergency declared under K.S.A. 48-924(b),
8 and amendments thereto, ~~or as provided in K.S.A. 2020 Supp. 48-924b,~~
9 ~~and amendments thereto. Within 24 hours of the issuance of any such~~
10 ~~order, the governor shall call a meeting of the state finance council for the~~
11 ~~purposes of reviewing such order.~~

12 (2) Such orders *issued under this section:*

13 (A) Shall be null and void after the period of a state of disaster
14 emergency *declared under K.S.A. 48-924(b), and amendments thereto,* has
15 ended. ~~Such orders; and~~

16 (B) may be revoked at any time by concurrent resolution of the
17 legislature.

18 (c) During a state of disaster emergency declared under K.S.A. 48-
19 924, and amendments thereto, in addition to any other powers conferred
20 upon the governor by law ~~and subject to the provisions of subsection (d),~~
21 ~~(e) and (f),~~ the governor may:

22 (1) ~~Suspend the provisions of any regulatory statute prescribing the~~
23 ~~procedures for conduct of state business, or the orders or rules and~~
24 ~~regulations~~ *Modify the provisions of any order, policy or rule and*
25 *regulation of any state agency which implements such statute; prescribing*
26 *the procedures for conduct of state business* if strict compliance with the
27 provisions of such ~~statute, order, policy or rule and regulation~~ would
28 prevent, ~~hinder or delay in any way~~ *the necessary action in coping with the*
29 *disaster;*

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

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

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

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

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

1 connection with such evacuation;

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

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

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

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

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

17 ~~(d) The governor shall not have the power or authority to temporarily
18 or permanently seize, or authorize seizure of, any ammunition or to
19 suspend or limit the sale, dispensing or transportation of firearms or
20 ammunition pursuant to subsection (c)(8) or any other executive authority.~~

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

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

32 ~~(g)(d) (1) The governor shall exercise the powers conferred by
33 subsection (c) by issuance of *executive* orders under subsection (b).~~

34 ~~(2) Each *executive* order issued pursuant to the authority granted by
35 subsection (b) shall specify the provision or provisions of subsection (c) by
36 specific reference to each paragraph of subsection (c) that confers the
37 power under which ~~the~~ *such* order was issued. *Each executive order issued
38 pursuant to other legal authority shall specify the source of such authority.*~~

39 ~~(3) *Each executive order issued pursuant to the authority granted by
40 subsection (b) that modifies the provisions of any order, policy or rule and
41 regulation shall specify the order, policy or rule and regulation being
42 modified. Any such modification shall be consistent with the statutory
43 section or sections implemented or interpreted by such order, policy or*~~

1 *rule and regulation and the authority pursuant to which such order, policy*
2 *or rule and regulation, or any part thereof, was adopted.*

3 (4) *If an executive order affects more than one county, such order*
4 *shall be narrowly tailored to conditions in individual counties or provide*
5 *specific reasons such order is not narrowly tailored to such conditions.*

6 (5) The adjutant general, subject to the direction of the governor, shall
7 administer such orders.

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

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

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

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

20 Sec. 12. K.S.A. 48-933 is hereby amended to read as follows: 48-933.

21 (a) Each person within this state shall act and manage the affairs of such
22 person and such person's property in any way which reasonably will assist
23 and not detract from the ability of the state and the public successfully to
24 meet disasters. This obligation includes appropriate personal service and
25 use or restriction on the use of property during a declared state of disaster
26 emergency under K.S.A. 48-924, and amendments thereto, *a declared*
27 *state of public health disaster emergency under section 1, and*
28 *amendments thereto*, or a declared state of local disaster emergency under
29 K.S.A. 48-932, and amendments thereto. This act neither increases nor
30 decreases these obligations, but recognizes their existence under the
31 constitution and statutes and the common law of this state. Compensation
32 for services or for the taking or use of property shall be only to the extent
33 that obligations recognized in this subsection are exceeded in a particular
34 case and then only to the extent that the claimant may not be deemed to
35 have volunteered services or property without compensation.

36 (b) No personal services may be compensated by the state or any
37 subdivision or agency thereof, except pursuant to statute enacted or
38 ordinance duly adopted therefor.

39 (c) Compensation for property shall be only if the property was
40 commandeered or otherwise used in coping with a disaster and its use or
41 destruction was ordered by the governor, adjutant general, an official of a
42 county, city or interjurisdictional disaster agency, or some other authorized
43 member of the emergency management forces of this state.

1 (d) Any person claiming compensation for the use, damage, loss or
2 destruction of property under this act shall file a claim therefor in the
3 district court in the same manner as any other civil action. The court shall
4 determine the validity of such claim in the same manner and under the
5 same conditions prescribed for condemnation actions pursuant to K.S.A.
6 26-501 et seq., and amendments thereto. Unless the amount of
7 compensation on account of property damaged, lost or destroyed is agreed
8 upon by the claimant and the adjutant general, the amount of
9 compensation shall be calculated in the same manner as compensation due
10 for a taking of property pursuant to the condemnation law of this state.

11 (e) Nothing in this section:

12 (1) *Authorizes compensation for intangible losses; or*

13 (2) applies to or authorizes compensation for the destruction or
14 damaging of standing timber or other property in order to provide a fire
15 break or for the release of waters or the breach of impoundments in order
16 to reduce pressure or other danger from actual or threatened flood.

17 Sec. 13. K.S.A. 2020 Supp. 48-939 is hereby amended to read as
18 follows: 48-939. (a) *Except as provided in subsection (b), a person who*
19 *intentionally violates any provision of the Kansas emergency management*
20 *act, any rule and regulation adopted by the adjutant general under the act*
21 *or any lawful executive order or proclamation issued under authority of*
22 *the act whether pursuant to a proclamation declaring a state of disaster*
23 *emergency under K.S.A. 48-924, and amendments thereto, or a*
24 *declaration of a state of local disaster emergency under K.S.A. 48-932,*
25 *and amendments thereto, shall be guilty of a class A nonperson*
26 *misdemeanor.*

27 (b) (1) A person who intentionally violates any provision of ~~this the~~
28 *Kansas emergency management act, any rule and regulation adopted by*
29 *the adjutant general under ~~this the~~ act or any lawful executive order or*
30 *proclamation issued under authority of ~~this the~~ act ~~whether~~ pursuant to a*
31 *proclamation declaring a state of public health disaster emergency under*
32 *K.S.A. 48-924 section 1, and amendments thereto, ~~or a declaration of a~~*
33 *state of local disaster emergency under K.S.A. 48-932, and amendments*
34 *thereto, may incur a civil penalty in an amount not to exceed \$2,500 per*
35 *violation. Each penalty may be assessed in addition to any other penalty*
36 *provided by law.*

37 (b)(2) Violations of this ~~section~~ *subsection* shall be enforced through
38 an action brought under chapter 60 of the Kansas Statutes Annotated, and
39 amendments thereto, by the attorney general or the county or district
40 attorney in the county in which the violation took place. Civil penalties
41 sued for and recovered by the county or district attorney shall be paid into
42 the general fund of the county where the proceedings were instigated.

43 (c) The attorney general or any county or district attorney may bring

1 an action to enjoin, or to obtain a restraining order, against a person who
 2 has violated, is violating or is otherwise likely to violate ~~this~~ *the Kansas*
 3 *emergency management act*.

4 (d) *Nothing in this section shall prohibit an action from being*
 5 *brought in each county in which a violation took place even if each action*
 6 *arises out of the same occurrence constituting the violation.*

7 Sec. 14. K.S.A. 2020 Supp. 48-949 is hereby amended to read as
 8 follows: 48-949. As used in ~~this~~ *the Kansas intrastate emergency mutual*
 9 *aid act*:

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

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

27 Sec. 15. K.S.A. 65-101 is hereby amended to read as follows: 65-101.

28 (a) The secretary of health and environment shall exercise general
 29 supervision of the health of the people of the state and may:

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

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

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

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

43 (5) *except as provided in subsections (c), (d) and (e), issue orders to*

1 take action to prevent the introduction of infectious or contagious disease
2 into this state and to prevent the spread of infectious or contagious disease
3 within this state;

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

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

15 (c) (1) *The secretary shall include in any order issued to take action*
16 *described in subsection (a)(5):*

17 (A) *The justification of the accepted scientific means and reasons*
18 *used for the action to prevent such introduction or spread of infectious or*
19 *contagious disease; and*

20 (B) *if such an order affects more than one county, a justification of*
21 *how the order is narrowly tailored to conditions in individual counties or*
22 *specific reasons the order is not narrowly tailored to such conditions.*

23 (2) *For any order issued to take action described in subsection (a)(5)*
24 *that affects more than one county, the secretary shall submit such*
25 *proposed order to the attorney general for review as provided by section*
26 *1(f)(2), and amendments thereto, and submit such proposed order to the*
27 *joint committee on emergency management for review as provided by*
28 *section 1(f)(3), and amendments thereto.*

29 (d) (1) *The secretary shall not issue an order to take action described*
30 *in subsection (a)(5) that:*

31 (A) *Substantially burdens or inhibits the gathering or movement of*
32 *individuals or operation of any religious, civic, business or commercial*
33 *activity, whether for-profit or not-for-profit, unless such order includes*
34 *justification of the accepted scientific reasons for such order and how such*
35 *order is narrowly tailored to accomplish remediation of such infectious or*
36 *contagious disease; or*

37 (B) *burdens or inhibits the operation of any religious gathering or*
38 *activity.*

39 (2) *The secretary may issue non-binding guidance and information*
40 *for the conduct of gatherings or activities described in paragraph (1).*

41 (e) *Any person aggrieved by an order issued to take action described*
42 *in subsection (a)(5) may request a hearing in a district court in*
43 *accordance with section 4, and amendments thereto.*

1 (f) *At any time, the legislature, by concurrent resolution, may require*
2 *the secretary to terminate an order issued to take action described in*
3 *subsection (a)(5).*

4 (g) *The secretary shall maintain a public registry on the Kansas*
5 *department of health and environment's website of all orders described in*
6 *section 3, and amendments thereto, and of all orders described in K.S.A.*
7 *65-201 and 65-202, and amendments thereto. At least once every two*
8 *weeks, the secretary shall compile the information received pursuant to*
9 *this subsection and update the public registry.*

10 (h) *As used in article 1 of chapter 65 of the Kansas Statutes*
11 *Annotated, and amendments thereto, the term "accepted scientific" means*
12 *methods of control employed and intended to remediate infectious,*
13 *contagious or communicable disease that are acknowledged as effective*
14 *by high-quality scientific data that includes systematic reviews of*
15 *completed, high-quality, randomized controlled trials.*

16 Sec. 16. K.S.A. 65-119 is hereby amended to read as follows: 65-119.

17 (a) Any county or joint board of health or local health officer having
18 knowledge of any infectious or contagious disease, or of a death from such
19 disease, within their jurisdiction, shall immediately exercise and maintain
20 a supervision over such case or cases during their continuance, seeing that
21 all such cases are properly cared for and that the provisions of this act as to
22 isolation, restriction of communication, quarantine and disinfection are
23 duly enforced. The county or joint board of health or local health officer
24 shall communicate without delay all information as to existing conditions
25 to the secretary of health and environment. The local health officer shall
26 confer personally, if practicable, otherwise by letter, with the person in
27 attendance upon the case, as to its future management and control. The
28 county or joint board of health ~~or local health officer~~ is hereby empowered
29 and authorized to prohibit public gatherings when necessary for the control
30 of any and all infectious or contagious disease, *except no board of health*
31 *or local health officer shall prohibit any school district, attendance center,*
32 *nonpublic school, community college or technical college from operating*
33 *pursuant to K.S.A. 65-201 and 65-202, and amendments thereto.*

34 (b) Any disclosure or communication of information relating to
35 infectious or contagious diseases required to be disclosed or
36 communicated under subsection (a) ~~of this section~~ shall be confidential
37 and shall not be disclosed or made public beyond the requirements of
38 subsection (a) ~~of this section~~ or subsection (a) of K.S.A. 65-118(a), and
39 *amendments thereto*, except as otherwise permitted by ~~subsection (c) of~~
40 *K.S.A. 65-118(c), and amendments thereto.*

41 Sec. 17. K.S.A. 65-126 is hereby amended to read as follows: 65-126.

42 (a) Whenever the county or joint board of health ~~or the local health officer~~
43 neglects to properly isolate and quarantine infectious or contagious

1 diseases and persons afflicted with or exposed to such diseases as may be
2 necessary to prevent the spread thereof, the secretary of health and
3 environment may quarantine any area in which any of these diseases may
4 show a tendency to become epidemic.

5 *(b) This section shall not apply to any school district, attendance*
6 *center, nonpublic school, community college or technical college within*
7 *any such area during any state of public health disaster emergency*
8 *declared pursuant to section 1, and amendments thereto.*

9 Sec. 18. K.S.A. 2020 Supp. 65-201 is hereby amended to read as
10 follows: 65-201. (a) The board of county commissioners of each county
11 shall act as the county board of health for the county. Each county board
12 shall appoint a person licensed to practice medicine and surgery,
13 preference being given to persons who have training in public health, who
14 shall serve as the local health officer and who shall act in an advisory
15 capacity to the county board of health. The appointing authority of city-
16 county, county or multicounty health units with less than 100,000
17 population may appoint a qualified local health program administrator as
18 the local health officer if a person licensed to practice medicine and
19 surgery or person licensed to practice dentistry is designated as a
20 consultant to direct the administrator on program and related medical and
21 professional matters. The local health officer or local health program
22 administrator shall hold office at the pleasure of the board.

23 *(b) (1) Any ~~order~~ recommendation issued by the local health officer,*
24 *including ~~orders~~ recommendations issued as a result of an executive order*
25 *of the governor, ~~may~~ shall be reviewed, ~~amended or revoked~~ by the board*
26 *of county commissioners of the county affected by such ~~order~~*
27 *recommendation at a meeting of the board. ~~Any order reviewed or~~*
28 *amended. If an order is subsequently issued by the board, such order shall*
29 *include an expiration date set by the board and may be amended or*
30 *revoked at an earlier date by a majority vote of the board. Any meeting of*
31 *county government discussing such order, including any hearing by a*
32 *board of county commissioners under paragraph (2), shall be open to the*
33 *public in accordance with the open meetings act, K.S.A. 75-4317 et seq.,*
34 *and amendments thereto, and may be conducted by electronic audio-visual*
35 *communication when necessary to secure the health and safety of the*
36 *public and county government officials and employees.*

37 *(2) Upon request by a person aggrieved by an order issued by the*
38 *board of county commissioners, the board shall conduct a hearing within*
39 *72 hours after receipt of such request for the purposes of reviewing,*
40 *amending or revoking such order as provided by paragraph (1).*

41 *(3) Any person aggrieved by a decision of a board of county*
42 *commissioners under paragraph (2) may request a hearing in a district*
43 *court pursuant to section 4, and amendments thereto.*

1 (4) *A board of county commissioners shall not issue an order that:*

2 (A) *Substantially burdens or inhibits the gathering or movement of*
3 *individuals or operation of any religious, civic, business or commercial*
4 *activity, whether for-profit or not-for-profit, unless such order includes*
5 *justification of the accepted scientific reasons for such order and how such*
6 *order accomplishes remediation of such infectious or contagious disease;*

7 (B) *burdens or inhibits the operation of any religious gathering or*
8 *activity; or*

9 (C) *has the effect of limiting travel between counties, except that the*
10 *authority to issue an order under K.S.A. 65-129b, and amendments*
11 *thereto, requiring an individual or group of individuals to go to and*
12 *remain in places of isolation or quarantine shall not be limited by this*
13 *subparagraph.*

14 (5) *A local health officer may issue non-binding guidance and*
15 *information for the conduct of gatherings or activities described in*
16 *paragraph (4).*

17 (6) *Any order issued under this subsection shall be provided to the*
18 *secretary of health and environment.*

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

24 (d) *As used in article 2 of chapter 65 of the Kansas Statutes*
25 *Annotated, and amendments thereto, the term "accepted scientific" means*
26 *methods of control employed and intended to remediate infectious,*
27 *contagious or communicable disease that are acknowledged as effective*
28 *by high-quality scientific data that includes systematic reviews of*
29 *completed, high-quality, randomized controlled trials.*

30 Sec. 19. K.S.A. 2020 Supp. 65-202 is hereby amended to read as
31 follows: 65-202. (a) (1) The local health officer in each county throughout
32 the state, immediately after such officer's appointment, shall take the same
33 oath of office prescribed by law for the county officers, shall give bond of
34 \$500 conditioned for the faithful performance of the officer's duties, shall
35 keep an accurate record of all the transactions of such office, shall turn
36 over to the successor in office or to the county or joint board of health
37 selecting such officer, on the expiration of such officer's term of office, all
38 records, documents and other articles belonging to the office and shall
39 faithfully account to *the* board of county commissioners and to the county
40 and state for all moneys coming into the office. Such officer shall notify
41 the secretary of health and environment of such officer's appointment and
42 qualification, and provide the secretary with such officer's contact
43 information.

1 (2) Such officer shall receive and distribute without delay in the
2 county all forms from the secretary of health and environment to the
3 rightful persons, all returns from persons licensed to practice medicine and
4 surgery, assessors and local boards to said secretary, shall keep an accurate
5 record of all of the transactions of such office and shall turn over all
6 records and documents kept by such officer, the successor in office, or to
7 the county or joint board electing such officer, on the expiration of the
8 term of office.

9 (3) The local health officer shall, upon the opening of the fall term of
10 school, make a sanitary inspection of each school building and grounds,
11 and shall make such additional inspections as are necessary to protect the
12 public health of the students of the school.

13 ~~(e)~~(b) (1) Such officer shall make an investigation of each case of
14 smallpox, diphtheria, typhoid fever, scarlet fever, acute anterior
15 poliomyelitis (infantile paralysis), epidemic cerebro-spinal meningitis and
16 such other acute infectious, contagious or communicable diseases as may
17 be required, and shall use ~~all known measures~~ *only accepted scientific*
18 *means* to prevent the spread of any such infectious, contagious or
19 communicable disease; and shall perform such other duties as this act, the
20 county or joint board, board of health or the secretary of health and
21 environment may require.

22 (2) Any ~~order~~ *recommendation* issued by the local health officer,
23 including ~~orders~~ *recommendations* issued as a result of an executive order
24 of the governor, on behalf of a county regarding the remediation of any
25 infectious, *contagious or communicable disease* ~~may~~ *shall include*
26 *justification of the accepted scientific means and reasons used for such*
27 *remediation. Any such recommendation described in this paragraph shall*
28 *be reviewed, amended or revoked* by the board of county commissioners
29 of any county affected by such ~~order~~ *recommendation* in the manner
30 provided by K.S.A. 65-201(b), and amendments thereto.

31 (3) *A local health officer shall not issue recommendations or*
32 *guidance that:*

33 (A) *Substantially burdens or inhibits the gathering or movement of*
34 *individuals or operation of any religious, civic, business or commercial*
35 *activity, whether for-profit or not-for-profit, unless such order includes*
36 *justification of the accepted scientific reasons for such order and how such*
37 *order is narrowly tailored to accomplish remediation of such infectious or*
38 *contagious disease;*

39 (B) *burdens or inhibits the operation of any religious gathering or*
40 *activity; or*

41 (C) *has the effect of limiting travel between counties, except that the*
42 *authority to issue an order under K.S.A. 65-129b, and amendments*
43 *thereto, requiring an individual or group of individuals to go to and*

1 *remain in places of isolation or quarantine shall not be limited by this*
2 *subparagraph.*

3 *(4) A local health officer may issue non-binding guidance and*
4 *information for the conduct of gatherings or activities described in*
5 *paragraph (3).*

6 *(c) Such officer shall receive compensation as set by the board and*
7 *with the approval of the board of health may employ a skilled professional*
8 *nurse and other additional personnel whenever deemed necessary for the*
9 *protection of the public health.*

10 *(d) For any failure or neglect of the local health officer to perform*
11 *any of the duties prescribed in this act, the officer may be removed from*
12 *office by the county board of health. In addition to removal from office,*
13 *for any failure or neglect to perform any of the duties prescribed by this*
14 *act, the local health officer shall be deemed guilty of a misdemeanor and,*
15 *upon conviction, be fined not less \$10 nor more than \$100 for each and*
16 *every offense.*

17 *New Sec. 20. The provisions of this act are severable. If any portion*
18 *of the act is declared unconstitutional or invalid, or the application of any*
19 *portion of the act to any person or circumstance is held unconstitutional or*
20 *invalid, the invalidity shall not affect other portions of the act that can be*
21 *given effect without the invalid portion or application, and the*
22 *applicability of such other portions of the act to any person or*
23 *circumstance shall remain valid and enforceable.*

24 *Sec. 21. K.S.A. 48-904, 48-923, 48-933, 65-101, 65-119 and 65-126*
25 *and K.S.A. 2019 Supp. 48-925, as amended by section 4 of 2021 Senate*
26 *Bill No. 14, and 48-925, as amended by section 5 of 2021 Senate Bill No.*
27 *14, and K.S.A. 2020 Supp. 48-924, as amended by section 2 of 2021*
28 *Senate Bill No. 14, 48-925b, 48-939, 48-949, 65-201 and 65-202 are*
29 *hereby repealed.*

30 *Sec. 22. This act shall take effect and be in force from and after its*
31 *publication in the Kansas register.*