

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2416

By Committee on Federal and State Affairs

2-23

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; **extending the time of an initial state of disaster**
5 **emergency**; limiting powers granted to the governor during a state of
6 disaster emergency; authorizing the legislative coordinating council and
7 the legislature to take certain actions related to a state of disaster
8 emergency; prohibiting the governor or the state board of education
9 from closing private schools during a state of disaster emergency;
10 **adding 911 dispatch center personnel to the definition of emergency**
11 **responder**; amending K.S.A. 46-1202 **and 75-3711** and K.S.A. 2019
12 Supp. 48-925, as amended by section 4 of 2021 Senate Bill No. 14, and
13 K.S.A. 2020 Supp. 48-924, as amended by section 2 of 2021 Senate
14 Bill No. 14, ~~and 48-925b~~ **and 48-949** and repealing the existing
15 sections; also repealing K.S.A. 2019 Supp. 48-925, as amended by
16 section 5 of 2021 Senate Bill No. 14.

17

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

19 New Section 1. (a) During a state of disaster emergency declared
20 under K.S.A. 48-924, and amendments thereto, when the governor
21 determines it is necessary to issue an executive order to promote and
22 secure the safety and protection of the civilian population of the state of
23 Kansas that is not expressly authorized by K.S.A. 48-925(c)(1) through
24 (10), and amendments thereto, the governor shall make specific
25 application to the legislative coordinating council to seek approval to issue
26 an executive order that is in conformity with the constitution and the bill of
27 rights of the state of Kansas and the statutes of the state of Kansas. Such
28 application shall state the reasons the executive order is necessary and
29 provide the language of the proposed executive order.

30 (b) Not less than 24 hours prior to making application to the
31 legislative coordinating council pursuant to subsection (a), the governor
32 shall submit the proposed executive order to the attorney general. The
33 attorney general shall review the proposed executive order and provide an
34 opinion on the legality of such executive order to the governor and the
35 legislative coordinating council within 24 hours of receipt of such
36 executive order and prior to the meeting of the legislative coordinating

1 council at which the governor will submit the application for approval of
2 such executive order, unless the circumstances attendant upon the disaster
3 prevent such review.

4 (c) (1) Upon application of the governor pursuant to subsection (a),
5 the chairperson of the legislative coordinating council shall call a meeting
6 of the council to take place within 24 hours for the purpose of discussing
7 the proposed executive order. At such meeting, the governor, or the
8 governor's designee, shall appear before the council to provide information
9 related to the proposed executive order. Upon an affirmative vote of five
10 members of the council, the proposed executive order shall be approved
11 for issuance by the governor.

12 (2) If the council does not approve the proposed executive order, the
13 council, upon an affirmative vote of five members of the council, may:

14 (A) Amend the proposed executive order and submit such amended
15 executive order to the governor, who shall decide whether to issue such
16 amended executive order;

17 (B) request the governor bring a new proposed executive order to the
18 council for consideration within 24 hours; or

19 (C) deny the executive order and take no further action.

20 (d) An executive order authorized by the legislative coordinating
21 council and issued by the governor pursuant to this section:

22 (1) Shall be null and void after the period of a state of disaster
23 emergency declared under K.S.A. 48-924, and amendments thereto, has
24 ended; and

25 (2) may be revoked at any time by concurrent resolution of the
26 legislature.

27 (e) An executive order issued pursuant to subsection (a) shall not:

28 (1) Exercise a power granted in statute in a way that does not
29 conform with the existing statutory requirements; or

30 (2) criminalize conduct that is not otherwise criminal.

31 (f) Any party aggrieved by an executive order issued pursuant to this
32 section may file an action in the district court of the county where such
33 party resides or in the district court of Shawnee county, Kansas, within 30
34 days after the issuance of such executive order. Notwithstanding any order
35 issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto,
36 the court shall conduct a hearing within 72 hours after receipt of a petition
37 in any such action. The court shall grant the request for relief unless the
38 court finds such executive order is narrowly tailored to respond to the state
39 of disaster emergency and uses the least restrictive means to achieve that
40 purpose.

41 (g) The governor shall not exercise a power conferred by K.S.A. 48-
42 925(c), and amendments thereto, after the initial ~~15-day~~ **30-day** state of
43 disaster emergency declared under K.S.A. 48-924, and amendments

1 thereto, unless authorized to exercise such power by K.S.A. ~~48-924(f)(2)~~
2 **48-925(f)(2)**, and amendments thereto, or this section.

3 (h) This section shall be a part of and supplemental to the Kansas
4 emergency management act.

5 New Sec. 2. (a) During a state of disaster emergency declared under
6 K.S.A. 48-924, and amendments thereto, when the legislature is not in
7 session or is adjourned during session for three or more days, the
8 legislative coordinating council may extend such state of disaster
9 emergency and authorize the governor to use the powers conferred by
10 K.S.A. 48-925(c), and amendments thereto, as authorized by this section.
11 Upon specific application by the governor pursuant to K.S.A. 48-924(b)(2)
12 or 48-925(f)(2), and amendments thereto, the chairperson of the legislative
13 coordinating council shall call a meeting of the legislative coordinating
14 council to occur within 24 hours of receipt of such application. The
15 governor shall not exercise the powers conferred by K.S.A. 48-925(c), and
16 amendments thereto, without authorization pursuant to K.S.A. 48-925(f),
17 and amendments thereto, when the legislature is in session or pursuant to
18 this section when the legislature is not in session or is adjourned during
19 session for three or more days.

20 (b) At such council meeting, the governor, or the governor's designee,
21 shall appear before the council to provide information related to the
22 application to extend a state of disaster emergency pursuant to K.S.A. 48-
23 924(b)(3), and amendments thereto, or the application to exercise the
24 powers conferred by K.S.A. 48-925(c), and amendments thereto.

25 (c) Upon an affirmative vote of five members of the council, the
26 council may:

27 (1) Extend the state of disaster emergency declared under K.S.A. 48-
28 924, and amendments thereto, for a specified period of time as determined
29 by the council; and

30 (2) if such state of disaster emergency is extended, authorize the
31 governor to continue exercising the powers granted in K.S.A. 48-925(c),
32 and amendments thereto, during any period of the extension.

33 (d) When making a determination as to whether to extend a state of
34 disaster emergency and whether to authorize the governor to continue
35 exercising the powers granted in K.S.A. 48-925(c), and amendments
36 thereto, the council shall consider:

37 (1) The size, scope, nature and likely duration of the disaster
38 emergency;

39 (2) the risk to life and property posed by the disaster emergency;

40 (3) the number of Kansans affected by the disaster emergency;

41 (4) the benefits and assistance made available to the state from the
42 federal government by the disaster emergency declaration;

43 (5) the economic effects of such disaster emergency declaration;

1 (6) the type of governmental response necessary to respond to the
2 disaster emergency;

3 (7) the likelihood that the disaster emergency or its effects become
4 worse without direct governmental intervention;

5 (8) whether executive orders are necessary to further the
6 governmental response to the disaster emergency;

7 (9) whether other means of governmental responses are more
8 appropriate to respond to the disaster emergency; and

9 (10) the type of executive orders proposed to be issued by the
10 governor.

11 (e) This section shall be a part of and supplemental to the Kansas
12 emergency management act.

13 Sec. 3. K.S.A. 46-1202 is hereby amended to read as follows: 46-
14 1202. (a) The legislative coordinating council shall have general authority
15 over all legislative services and such authority shall be exercised by such
16 council as it shall determine, except as otherwise provided by chapter 46
17 of Kansas Statutes Annotated, *and amendments thereto*. The legislative
18 coordinating council shall represent the legislature when the legislature is
19 not in session. *The legislative coordinating council shall have authority as*
20 *to any matter provided by law.*

21 (b) The legislative coordinating council may adopt and amend rules
22 applicable to its affairs or to the meetings and activities of special
23 committees, standing committees or advisory committees, except that such
24 rules shall not apply to standing committees meeting while the legislature
25 is in session. When the legislature is not in session, the legislative
26 coordinating council shall govern the mechanics and procedure of all
27 legislative committee work and activities, except that of the interstate
28 cooperation commission, legislative post-audit committee, state finance
29 council and the ways and means of the senate and the committee on
30 appropriations of the house of representatives when meeting under
31 authority of K.S.A. 46-134a, and amendments thereto.

32 (c) *The legislative coordinating council shall meet as authorized by*
33 *the Kansas emergency management act to discuss and approve extensions*
34 *of a state of disaster emergency declared under K.S.A. 48-924, and*
35 *amendments thereto, authorize the use of powers conferred by K.S.A. 48-*
36 *925(c), and amendments thereto, and section 1, and amendments thereto,*
37 *and review proposed executive orders as provided in—section 2,—and—*
38 ~~*amendments thereto*~~ **the Kansas emergency management act.**

39 (d) A majority vote of five members of the legislative coordinating
40 council shall be required for any action of the council, except that action
41 relating solely to one house of the legislature may be authorized by the
42 unanimous vote of the members of the legislative coordinating council
43 who are members of such house of the legislature.

1 Sec. 4. K.S.A. 2020 Supp. 48-924, as amended by section 2 of 2021
2 Senate Bill No. 14, is hereby amended to read as follows: 48-924. (a) The
3 governor *and the legislature* shall be responsible for meeting the dangers
4 to the state and people presented by disasters.

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

9 (2) ~~In addition to or instead of the proclamation authorized by K.S.A.~~
10 ~~47-611, and amendments thereto, the governor, upon a finding or when~~
11 ~~notified pursuant to K.S.A. 47-611, and amendments thereto, that a~~
12 ~~quarantine or other regulations are necessary to prevent the spread among~~
13 ~~domestic animals of any contagious or infectious disease, may issue a~~
14 ~~proclamation declaring a state of disaster emergency. In addition to or~~
15 ~~instead of any actions pursuant to the provisions of K.S.A. 2-2114, and~~
16 ~~amendments thereto, the governor, upon a finding or when notified~~
17 ~~pursuant to K.S.A. 2-2112 et seq., and amendments thereto, that a~~
18 ~~quarantine or other regulations are necessary to prevent the spread among~~
19 ~~plants, raw agricultural commodities, animal feed or processed food of any~~
20 ~~contagious or infectious disease, may issue a proclamation declaring a~~
21 ~~state of disaster emergency.~~

22 (3) ~~The state of disaster emergency so declared shall continue until~~
23 ~~the governor finds that the threat or danger of disaster has passed, or the~~
24 ~~disaster has been dealt with to the extent that emergency conditions no~~
25 ~~longer exist. Upon making such findings the governor shall terminate the~~
26 ~~state of disaster emergency by proclamation, but except as provided in~~
27 ~~paragraph (4),. No state of disaster emergency may continue for longer~~
28 ~~than 15 30 days unless ratified by concurrent resolution of the legislature,~~
29 ~~with the single exception that when the legislature is not in session or is~~
30 ~~adjourned during session for three or more days, upon specific application~~
31 ~~by the governor to the state finance council and an affirmative vote of a~~
32 ~~majority of the legislative members thereof legislative coordinating~~
33 ~~council, a state of disaster emergency may be extended once for a~~
34 ~~specified period not to exceed 30 days beyond such 15-day period periods~~
35 ~~as provided in section 2, and amendments thereto. A concurrent resolution~~
36 ~~ratifying a state of disaster emergency shall state the duration of the~~
37 ~~extension of such state of disaster emergency and shall state whether the~~
38 ~~governor is authorized to exercise the powers conferred upon the governor~~
39 ~~pursuant to K.S.A. 48-925, and amendments thereto.~~

40 (4) ~~If the state of disaster emergency is proclaimed pursuant to~~
41 ~~paragraph (2), the governor shall terminate the state of disaster emergency~~
42 ~~by proclamation within 15 days, unless ratified by concurrent resolution of~~
43 ~~the legislature, except that when the legislature is not in session and upon~~

1 specific application by the governor to the state finance council and an
2 affirmative vote of a majority of the legislative members thereof, a state of
3 disaster emergency may be extended for a specified period not to exceed
4 30 days. The state finance council may authorize additional extensions of
5 the state of disaster emergency by a unanimous vote of the legislative
6 members thereof for specified periods not to exceed 30 days each. Such
7 state of disaster emergency shall be terminated on the 15th day of the next
8 regular legislative session following the initial date of the state of disaster
9 emergency unless ratified by concurrent resolution of the legislature.

10 (5) ~~The state of disaster emergency described in K.S.A. 2020 Supp.~~
11 ~~48-924b, and amendments thereto, shall terminate on September 15, 2020,~~
12 ~~as provided in K.S.A. 2020 Supp. 48-924b, and amendments thereto,~~
13 ~~except that when the legislature is not in session or is adjourned during~~
14 ~~session for three or more days, and upon specific application by the~~
15 ~~governor to the state finance council and an affirmative vote of at least six~~
16 ~~of the legislative members of the council, this state of disaster emergency~~
17 ~~may be extended for specified periods not to exceed 30 days each. No such~~
18 ~~extension granted by the state finance council shall continue past March~~
19 ~~31, 2021.~~

20 (6)(3) At any time, the legislature by concurrent resolution may
21 require the governor to terminate a state of disaster emergency. Upon such
22 action by the legislature, the governor shall issue a proclamation
23 terminating the state of disaster emergency.

24 (7)(4) Any proclamation declaring or terminating a state of disaster
25 emergency ~~which that~~ is issued under this ~~subsection~~ *section* shall indicate
26 the nature of the disaster, the area or areas *of the state* threatened or
27 affected by the disaster and the conditions ~~which that~~ have brought about,
28 or ~~which that~~ make possible the termination of, the state of disaster
29 emergency. Each such proclamation shall be disseminated promptly by
30 means calculated to bring its contents to the attention of the general public
31 and, unless the circumstances attendant upon the disaster prevent the same,
32 each such proclamation shall be filed promptly with the division of
33 emergency management, the office of the secretary of state and each city
34 clerk or county clerk, as the case may be, in the area *or areas of the state*
35 to which such proclamation applies.

36 (5) *The governor shall not issue a subsequent proclamation declaring*
37 *a state of disaster emergency for the same or similar disaster if the*
38 *legislature did not ratify and continue the original state of disaster*
39 *emergency pursuant to this section or the legislative coordinating council*
40 *did not extend **the** original~~the~~ state of disaster emergency pursuant to*
41 *section 2, and amendments thereto.*

42 (c) In the event of the absence of the governor from the state or the
43 existence of any constitutional disability of the governor, an officer

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

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

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

35 Sec. 5. K.S.A. 2019 Supp. 48-925, as amended by section 4 of 2021
36 Senate Bill No. 14, is hereby amended to read as follows: 48-925. (a)
37 During any state of disaster emergency declared under K.S.A. 48-924, and
38 amendments thereto, the governor shall be commander-in-chief of the
39 organized and unorganized militia and of all other forces available for
40 emergency duty. To the greatest extent practicable, the governor shall
41 delegate or assign command authority by prior arrangement, embodied in
42 appropriate executive orders or in rules and regulations of the adjutant
43 general, but nothing ~~herein~~ shall restrict the authority of the governor to do

1 so by *executive* orders issued at the time of a disaster.

2 (b) Under the provisions of this act and for the implementation of this
3 act, the governor may issue *executive* orders to exercise the powers
4 conferred by subsection (c) that have the force and effect of law during the
5 period of a state of disaster emergency declared under K.S.A. 48-924(b),
6 and amendments thereto, or as provided in K.S.A. 2020 Supp. 48-924b,
7 and amendments thereto. ~~Within 24 hours of the issuance of any such~~
8 ~~order, The governor chairperson of the legislative coordinating council~~
9 ~~shall call a meeting of the state finance council to take place within 24~~
10 ~~hours of the issuance of an executive order issued pursuant to this section~~
11 for the purposes of reviewing such *executive* order. Such *executive* orders
12 shall be null and void after the period of a state of disaster emergency has
13 ended. Such *executive* orders may be revoked at any time by concurrent
14 resolution of the legislature.

15 (c) During a state of disaster emergency declared under K.S.A. 48-
16 924, and amendments thereto, in addition to any other powers conferred
17 upon the governor by law and subject to the provisions of subsection (d),
18 ~~(e) and, (f), (g) and (h) and sections 1 and 2, and amendments thereto,~~ the
19 governor may:

20 (1) Suspend the provisions of any regulatory statute prescribing the
21 procedures for conduct of state business, or the orders or rules and
22 regulations of any state agency which implements such statute, if strict
23 compliance with the provisions of such statute, order or rule and regulation
24 would prevent, hinder or delay in any way necessary action in coping with
25 the disaster, *and an executive order exercising such power shall specify*
26 *each statute, order or rule and regulation being suspended;*

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

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

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

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

40 (6) prescribe routes, modes of transportation and destinations in
41 connection with such evacuation;

42 (7) control ingress and egress of persons and animals to and from a
43 disaster area, the movement of persons and animals within the area and the

1 occupancy by persons and animals of premises therein;

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

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

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

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

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

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

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

29 (g)(f) (1) The governor shall exercise the powers conferred by
30 subsection (c) by issuance of *executive* orders under subsection (b) *and*
31 *section 1, and amendments thereto*. Each *executive* order issued pursuant
32 to the authority granted by subsection (b) shall specify the provision or
33 provisions of subsection (c) by specific reference to each paragraph of
34 subsection (c) that confers the power ~~under which the order was issued to~~
35 *issue such order*. The adjutant general, subject to the direction of the
36 governor, shall administer such orders.

37 (2) ~~After the initial 15-day~~ **30-day** *state of disaster emergency, if the*
38 *state of disaster emergency is extended pursuant to K.S.A. 48-924(b)(2),*
39 *and amendments thereto, or section 2, and amendments thereto, and the*
40 *governor determines it is necessary to exercise the powers conferred by*
41 *subsection (c) through the issuance of an executive order, the governor*
42 *shall make specific application to the speaker of the house of*
43 *representatives and the president of the senate when the legislature is in*

1 session, and to the legislative coordinating council pursuant to section 2,
2 and amendments thereto, when the legislature is not in session or is
3 adjourned during session for three or more days. When the legislature is
4 in session, authorization of the use of the powers conferred by subsection
5 (c) by the governor shall be through concurrent resolution of the
6 legislature. When the legislature is not in session, authorization of the use
7 of the powers conferred by subsection (c) by the governor shall be as
8 provided in section 2, and amendments thereto.

9 (g) Prior to issuing an executive order pursuant to this section, the
10 governor shall submit the proposed executive order to the attorney
11 general. The attorney general shall review the proposed executive order
12 for legality and provide an opinion on the legality of such executive order
13 to the governor and the legislative coordinating council within 24 hours of
14 receipt of such proposed executive order unless the circumstances
15 attendant upon the disaster prevent such review.

16 (h) (1) The board of county commissioners of any county may issue
17 an order relating to the public health of humans that is not related to the
18 food supply that includes provisions that are less stringent than the
19 provisions of an executive order effective statewide issued by the
20 governor. Any board of county commissioners issuing such an order must
21 make the following findings and include such findings in the order:

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

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

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

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

31 (i) (1) Any party aggrieved by an executive order issued pursuant to
32 this section may file an action in the district court of the county where
33 such party resides or in the district court of Shawnee county, Kansas,
34 within 30 days after the issuance of such executive order. Notwithstanding
35 any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and
36 amendments thereto, the court shall conduct a hearing within 72 hours
37 after receipt of a petition in any such action. Except as provided in
38 paragraph (2), the court shall grant the request for relief unless the court
39 finds the executive order is necessary to achieve an important interest
40 related to the state of disaster emergency and is substantially related to
41 such interest.

42 (2) If an executive order has the effect of substantially burdening or
43 inhibiting the gathering or movement of individuals or the operation of

1 *any religious, civic, business or commercial activity, whether for-profit or*
2 *not-for-profit, the court shall grant the request for relief unless the court*
3 *finds that the executive order is narrowly tailored to respond to the state of*
4 *disaster emergency and uses the least restrictive means to achieve that*
5 *purpose.*

6 Sec. 6. K.S.A. 2020 Supp. 48-925b is hereby amended to read as
7 follows: 48-925b. Notwithstanding any other provision of law to the
8 contrary, no executive order issued by the governor pursuant to K.S.A. 48-
9 925, and amendments thereto, that has the effect of closing public ~~or~~
10 ~~private~~ school attendance centers in this state shall be effective unless and
11 until such order has been affirmed by the state board of education by
12 adoption of a resolution by a majority of the members of the state board.
13 Prior to issuing any such executive order, the governor shall submit such
14 proposed executive order to the state board of education. Upon receipt of
15 such proposed executive order, the state board shall meet as soon as
16 reasonably possible to review such proposed order and, if a majority of the
17 members of the state board determines such order is in the best interests of
18 the students in this state, to adopt a resolution affirming such proposed
19 executive order. *An executive order issued pursuant to K.S.A. 48-925, and*
20 *amendments thereto, and affirmed by the state board pursuant to this*
21 *section shall only affect the operations of schools under the jurisdiction of*
22 *the state board of education.*

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

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

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

1 **Sec. 8. K.S.A. 75-3711 is hereby amended to read as follows: 75-**
2 **3711. (a) The governor shall:**

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

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

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

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

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

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

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

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

13 New Sec. ~~7~~ 9. The provisions of this act are severable. If any portion
14 of the act is declared unconstitutional or invalid, or the application of any
15 portion of the act to any person or circumstance is held unconstitutional or
16 invalid, the invalidity shall not affect other portions of the act that can be
17 given effect without the invalid portion or application, and the
18 applicability of such other portions of the act to any person or
19 circumstance shall remain valid and enforceable.

20 Sec. ~~8~~ 10. K.S.A. 46-1202 **and 75-3711** and K.S.A. 2019 Supp. 48-
21 925, as amended by section 4 of 2021 Senate Bill No. 14, and 48-925, as
22 amended by section 5 of 2021 Senate Bill No. 14, and K.S.A. 2020 Supp.
23 48-924, as amended by section 2 of 2021 Senate Bill No. 14, ~~and~~ 48-925b
24 **and 48-949** are hereby repealed.

25 Sec. ~~9~~ 11. This act shall take effect and be in force from and after its
26 publication in the Kansas register.