

SENATE BILL No. 176

By Committee on Ways and Means

2-10

1 AN ACT concerning school districts; relating to the professional
2 negotiations act; relating to limits on negotiations with professional
3 employees' organizations; amending K.S.A. 72-5420, 72-5422, 72-
4 5423, 72-5426, 72-5428a and 72-5430 and K.S.A. 2014 Supp. 45-229,
5 72-5413, 72-5430a, 72-5432 and 77-618 and repealing the existing
6 sections; also repealing K.S.A. 72-5424, 72-5428, 72-5429 and 72-
7 5431 and K.S.A. 2014 Supp. 72-5427.

8
9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 2014 Supp. 45-229 is hereby amended to read as
11 follows: 45-229. (a) It is the intent of the legislature that exceptions to
12 disclosure under the open records act shall be created or maintained only
13 if:

14 (1) The public record is of a sensitive or personal nature concerning
15 individuals;

16 (2) the public record is necessary for the effective and efficient
17 administration of a governmental program; or

18 (3) the public record affects confidential information.

19 The maintenance or creation of an exception to disclosure must be
20 compelled as measured by these criteria. Further, the legislature finds that
21 the public has a right to have access to public records unless the criteria in
22 this section for restricting such access to a public record are met and the
23 criteria are considered during legislative review in connection with the
24 particular exception to disclosure to be significant enough to override the
25 strong public policy of open government. To strengthen the policy of open
26 government, the legislature shall consider the criteria in this section before
27 enacting an exception to disclosure.

28 (b) Subject to the provisions of subsections (g) and (h), any new
29 exception to disclosure or substantial amendment of an existing exception
30 shall expire on July 1 of the fifth year after enactment of the new
31 exception or substantial amendment, unless the legislature acts to continue
32 the exception. A law that enacts a new exception or substantially amends
33 an existing exception shall state that the exception expires at the end of
34 five years and that the exception shall be reviewed by the legislature
35 before the scheduled date.

36 (c) For purposes of this section, an exception is substantially amended

1 if the amendment expands the scope of the exception to include more
2 records or information. An exception is not substantially amended if the
3 amendment narrows the scope of the exception.

4 (d) This section is not intended to repeal an exception that has been
5 amended following legislative review before the scheduled repeal of the
6 exception if the exception is not substantially amended as a result of the
7 review.

8 (e) In the year before the expiration of an exception, the revisor of
9 statutes shall certify to the president of the senate and the speaker of the
10 house of representatives, by July 15, the language and statutory citation of
11 each exception which will expire in the following year which meets the
12 criteria of an exception as defined in this section. Any exception that is not
13 identified and certified to the president of the senate and the speaker of the
14 house of representatives is not subject to legislative review and shall not
15 expire. If the revisor of statutes fails to certify an exception that the revisor
16 subsequently determines should have been certified, the revisor shall
17 include the exception in the following year's certification after that
18 determination.

19 (f) "Exception" means any provision of law which creates an
20 exception to disclosure or limits disclosure under the open records act
21 pursuant to K.S.A. 45-221, and amendments thereto, or pursuant to any
22 other provision of law.

23 (g) A provision of law which creates or amends an exception to
24 disclosure under the open records law shall not be subject to review and
25 expiration under this act if such provision:

- 26 (1) Is required by federal law;
- 27 (2) applies solely to the legislature or to the state court system;
- 28 (3) has been reviewed and continued in existence twice by the
29 legislature; or
- 30 (4) has been reviewed and continued in existence by the legislature
31 during the 2013 legislative session and thereafter.

32 (h) (1) The legislature shall review the exception before its scheduled
33 expiration and consider as part of the review process the following:

- 34 (A) What specific records are affected by the exception;
- 35 (B) whom does the exception uniquely affect, as opposed to the
36 general public;
- 37 (C) what is the identifiable public purpose or goal of the exception;
- 38 (D) whether the information contained in the records may be obtained
39 readily by alternative means and how it may be obtained;
- 40 (2) an exception may be created or maintained only if it serves an
41 identifiable public purpose and may be no broader than is necessary to
42 meet the public purpose it serves. An identifiable public purpose is served
43 if the legislature finds that the purpose is sufficiently compelling to

1 override the strong public policy of open government and cannot be
2 accomplished without the exception and if the exception:

3 (A) Allows the effective and efficient administration of a
4 governmental program, which administration would be significantly
5 impaired without the exception;

6 (B) protects information of a sensitive personal nature concerning
7 individuals, the release of which information would be defamatory to such
8 individuals or cause unwarranted damage to the good name or reputation
9 of such individuals or would jeopardize the safety of such individuals.
10 Only information that would identify the individuals may be excepted
11 under this paragraph; or

12 (C) protects information of a confidential nature concerning entities,
13 including, but not limited to, a formula, pattern, device, combination of
14 devices, or compilation of information which is used to protect or further a
15 business advantage over those who do not know or use it, the disclosure of
16 which information would injure the affected entity in the marketplace.

17 (3) Records made before the date of the expiration of an exception
18 shall be subject to disclosure as otherwise provided by law. In deciding
19 whether the records shall be made public, the legislature shall consider
20 whether the damage or loss to persons or entities uniquely affected by the
21 exception of the type specified in ~~paragraph (2)(B) or (2)(C) of this~~
22 subsection (h)(2)(B) or (h)(2)(C) would occur if the records were made
23 public.

24 (i) (1) Exceptions contained in the following statutes as continued in
25 existence in section 2 of chapter 126 of the 2005 Session Laws of Kansas
26 and which have been reviewed and continued in existence twice by the
27 legislature as provided in subsection (g) are hereby continued in existence:
28 1-401, 2-1202, 5-512, 9-1137, 9-1712, 9-2217, 10-630, 11-306, 12-189,
29 12-1,108, 12-1694, 12-1698, 12-2819, 12-4516, 16-715, 16a-2-304, 17-
30 1312e, 17-2227, 17-5832, 17-7511, 17-7514, 17-76,139, 19-4321, 21-
31 2511, 22-3711, 22-4707, 22-4909, 22a-243, 22a-244, 23-605, 23-9,312,
32 25-4161, 25-4165, 31-405, 34-251, 38-2212, 39-709b, 39-719e, 39-934,
33 39-1434, 39-1704, 40-222, 40-2,156, 40-2c20, 40-2c21, 40-2d20, 40-2d21,
34 40-409, 40-956, 40-1128, 40-2807, 40-3012, 40-3304, 40-3308, 40-3403b,
35 40-3421, 40-3613, 40-3805, 40-4205, 44-510j, 44-550b, 44-594, 44-635,
36 44-714, 44-817, 44-1005, 44-1019, ~~subsections (a)(1) through (43) of 45-~~
37 ~~221(a)(1) through (43),~~ 46-256, 46-259, 46-2201, 47-839, 47-844, 47-849,
38 47-1709, 48-1614, 49-406, 49-427, 55-1,102, 58-4114, 59-2135, 59-2802,
39 59-2979, 59-29b79, 60-3333, 60-3336, 65-102b, 65-118, 65-119, 65-153f,
40 65-170g, 65-177, 65-1,106, 65-1,113, 65-1,116, 65-1,157a, 65-1,163, 65-
41 1,165, 65-1,168, 65-1,169, 65-1,171, 65-1,172, 65-436, 65-445, 65-507,
42 65-525, 65-531, 65-657, 65-1135, 65-1467, 65-1627, 65-1831, 65-2422d,
43 65-2438, 65-2836, 65-2839a, 65-2898a, 65-3015, 65-3447, 65-34,108, 65-

1 34,126, 65-4019, 65-4922, 65-4925, 65-5602, 65-5603, 65-6002, 65-6003,
2 65-6004, 65-6010, 65-67a05, 65-6803, 65-6804, 66-101c, 66-117, 66-151,
3 66-1,190, 66-1,203, 66-1220a, 66-2010, 72-996, 72-4311, 72-4452, 72-
4 5214, 72-53,106, ~~72-5427~~, 72-8903, 73-1228, 74-2424, 74-2433f, 74-
5 4905, 74-4909, 74-50,131, 74-5515, 74-7308, 74-7338, 74-8104, 74-8307,
6 74-8705, 74-8804, 74-9805, 75-104, 75-712, 75-7b15, 75-1267, 75-2943,
7 75-4332, 75-4362, 75-5133, 75-5266, 75-5665, 75-5666, 75-7310, 76-355,
8 76-359, 76-493, 76-12b11, 76-3305, 79-1119, 79-1437f, 79-3234, 79-
9 3395, 79-3420, 79-3499, 79-34,113, 79-3614, 79-3657, 79-4301 and 79-
10 5206.

11 (2) Exceptions contained in the following statutes as certified by the
12 revisor of statutes to the president of the senate and the speaker of the
13 house of representatives pursuant to subsection (e) during 2009 are hereby
14 continued in existence until July 1, 2015, at which time such exceptions
15 shall expire: 17-2036, 40-5301, ~~subsections (a)(45) and (a)(46) of 45-~~
16 ~~221(a)(45) and (a)(46)~~, 60-3351, 72-972a, 74-99d05 and 75-53,105.

17 (j) (1) Exceptions contained in the following statutes as continued in
18 existence in section 1 of chapter 87 of the 2006 Session Laws of Kansas
19 and which have been reviewed and continued in existence twice by the
20 legislature as provided in subsection (g) are hereby continued in existence:
21 1-501, 9-1303, 12-4516a, 39-970, 65-525, 65-5117, 65-6016, 65-6017 and
22 74-7508.

23 (2) Exceptions contained in the following statutes as certified by the
24 revisor of statutes to the president of the senate and the speaker of the
25 house of representatives pursuant to subsection (e) during 2010 are hereby
26 continued in existence until July 1, 2016, at which time such exceptions
27 shall expire: 12-5358, 12-5611, 22-4906, 22-4909, 38-2310, 38-2311, 38-
28 2326, 44-1132, 60-3333, 65-6154, 71-218, 75-457, 75-712c, 75-723 and
29 75-7c06.

30 (k) Exceptions contained in the following statutes as certified by the
31 revisor of statutes to the president of the senate and the speaker of the
32 house of representatives pursuant to subsection (e) and which have been
33 reviewed during the 2014 legislative session and continued in existence by
34 the legislature as provided in subsection (g) are hereby continued in
35 existence: 1-205, 2-2204, 8-240, 8-247, 8-255c, 8-1324, 8-1325, 12-
36 17,150, 12-2001, 17-12a607, 38-1008, 38-2209, 40-5006, 40-5108, 41-
37 2905, 41-2906, 44-706, 44-1518, ~~subsections (a)(44), (45), (46), (47) and~~
38 ~~(48) of 45-221(a)(44), (45), (46), (47) and (48)~~, 50-6a11, 56-1a610, 56a-
39 1204, 65-1,243, 65-16,104, 65-3239, 74-50,184, 74-8134, 74-99b06, 77-
40 503a and 82a-2210.

41 (l) Exceptions contained in the following statutes as certified by the
42 revisor of statutes to the president of the senate and the speaker of the
43 house of representatives pursuant to subsection (e) during 2011 are hereby

1 continued in existence until July 1, 2017, at which time such exceptions
2 shall expire: 12-5711, 21-2511, 38-2313, 65-516, 74-8745, 74-8752, 74-
3 8772 and 75-7427.

4 (m) Exceptions contained in the following statutes as certified by the
5 revisor of statutes to the president of the senate and the speaker of the
6 house of representatives pursuant to subsection (e) during 2012 and which
7 have been reviewed during the 2013 legislative session and continued in
8 existence by the legislature as provided in subsection (g) are hereby
9 continued in existence: 12-5811, 40-222, 40-223j, 40-5007a, 40-5009a,
10 40-5012a, 65-1685, 65-1695, 65-2838a, 66-1251, 66-1805, 72-60c01, 75-
11 712 and 75-5366.

12 Sec. 2. K.S.A. 2014 Supp. 72-5413 is hereby amended to read as
13 follows: 72-5413. As used in this act ~~and in acts amendatory thereof or~~
14 ~~supplemental thereto:~~

15 (a) The term "persons" includes one or more individuals,
16 organizations, associations, corporations, boards, committees,
17 commissions, agencies, or their representatives.

18 (b) "Board of education" means the state board of education pursuant
19 to its authority under K.S.A. 76-1001a and 76-1101a, and amendments
20 thereto, the board of education of any school district, the board of control
21 of any ~~area vocational-technical school~~ *technical college or the institute of*
22 *technology at Washburn university* and the board of trustees of any
23 community college.

24 (c) "Professional employee" means any person employed by a board
25 of education in a position which requires a certificate issued by the state
26 board of education or employed by a board of education in a professional,
27 educational or instructional capacity, but shall not mean any such person
28 who is an administrative employee and, commencing in the 2006-2007
29 school year, shall not mean any person who is a retirant from school
30 employment of the Kansas public employees retirement system, regardless
31 of whether an agreement between a board of education and an exclusive
32 representative of professional employees that covers terms and conditions
33 of professional service provides to the contrary.

34 (d) "Administrative employee" means, in the case of a school district,
35 any person who is employed by a board of education in an administrative
36 capacity and who is fulfilling duties for which an administrator's certificate
37 is required under K.S.A. 72-7513, and amendments thereto; and, in the
38 case of an area vocational-technical school or community college, any
39 person who is employed by the board of control or the board of trustees in
40 an administrative capacity and who is acting in that capacity and who has
41 authority, in the interest of the board of control or the board of trustees, to
42 hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or
43 discipline other employees, or responsibly to direct them or to adjust their

1 grievances, or effectively to recommend a preponderance of such actions,
2 if in connection with the foregoing, the exercise of such authority is not of
3 a merely routine or clerical nature, but requires the use of independent
4 judgment.

5 (e) "Professional employees' organizations" means any one or more
6 organizations, agencies, committees, councils or groups of any kind in
7 which professional employees participate, and which exist for the purpose,
8 in whole or part, of engaging in professional negotiation with boards of
9 education with respect to the terms and conditions of professional service
10 or for the purpose of professional development or liability protection.

11 (f) "Representative" means any professional employees' organization
12 or any person it authorizes or designates to act in its behalf or any person a
13 board of education authorizes or designates to act in its behalf.

14 (g) "Professional negotiation" means meeting, conferring, consulting
15 and discussing in a good faith effort by both parties to reach agreement
16 with respect to the terms and conditions of professional service.

17 ~~(h) "Mediation" means the effort through interpretation and advice by
18 an impartial third party to assist in reconciling a dispute concerning terms
19 and conditions of professional service which arose in the course of
20 professional negotiation between a board of education or its
21 representatives and representatives of the recognized professional
22 employees' organization.~~

23 ~~(i) "Fact-finding" means the investigation by an individual or board of
24 a dispute concerning terms and conditions of professional service which
25 arose in the course of professional negotiation, and the submission of a
26 report by such individual or board to the parties to such dispute which
27 includes a determination of the issues involved, findings of fact regarding
28 such issues, and the recommendation of the fact-finding individual or
29 board for resolution of the dispute.~~

30 ~~(j) (h) "Strike" means an action taken for the purpose of coercing a
31 change in the terms and conditions of professional service or the rights,
32 privileges or obligations thereof, through any failure by concerted action
33 with others to report for duty including, but not limited to, any work
34 stoppage, slowdown, or refusal to work.~~

35 ~~(k) (i) "Lockout" means action taken by a board of education to
36 provoke interruptions of or prevent the continuity of work normally and
37 usually performed by the professional employees for the purpose of
38 coercing professional employees into relinquishing rights guaranteed by
39 this act and the act of which this section is amendatory.~~

40 ~~(l) (j) (1) "Terms and conditions of professional service" means: (A)
41 salaries and wages, including pay for duties under supplemental contracts;
42 hours and amounts of work; vacation allowance, holiday, sick, extended,
43 sabbatical, and other leave, and number of holidays; retirement; insurance~~

1 benefits; wearing apparel; pay for overtime; jury duty; grievance
2 procedure, including binding arbitration of grievances; disciplinary
3 procedure; resignations; termination and nonrenewal of contracts;
4 reemployment of professional employees; terms and form of the individual
5 professional employee contract; probationary period; professional
6 employee appraisal procedures; each of the foregoing being a term and
7 condition of professional service, regardless of its impact on the employee
8 or on the operation of the educational system; (B) matters which relate to
9 privileges to be granted the recognized professional employees'
10 organization including, but not limited to, voluntary payroll deductions;
11 dissemination of information regarding the professional negotiation
12 process and related matters to members of the bargaining unit on school or
13 college premises through direct contact with members of the bargaining
14 unit; reasonable leaves of absence for members of the bargaining unit for
15 organizational purposes such as engaging in professional negotiation and
16 partaking of instructional programs properly related to the representation
17 of the bargaining unit; any of the foregoing privileges which are granted
18 the recognized professional employees' organization through the
19 professional negotiation process shall not be granted to any other
20 professional employees' organization; and (C) such other matters as the
21 parties mutually agree upon as properly related to professional service
22 including, but not limited to, employment incentive or retention bonuses
23 authorized under K.S.A. 72-8246, and amendments thereto *shall*
24 *exclusively mean the minimum amount of salaries and wages, including*
25 *pay for duties under supplemental contracts.*

26 (2) Nothing in this act, and amendments thereto, shall authorize any
27 professional employees' organization to be granted the exclusive privilege
28 of access to the use of school or college facilities for meetings, the use of
29 bulletin boards on or about the facility or the use of school or college mail
30 systems.

31 (3) Nothing in this act, and amendments thereto, shall authorize the
32 diminution of any right, duty or obligation of either the professional
33 employee or the board of education which have been fixed by statute or by
34 the constitution of this state. Except as otherwise expressly provided in
35 this subsection (1), the fact that any matter may be the subject of a statute
36 or the constitution of this state does not preclude negotiation thereon so
37 long as the negotiation proposal would not prevent the fulfillment of the
38 statutory or constitutional objective.

39 (4) Matters which relate to the duration of the school term, and
40 specifically to consideration and determination by a board of education of
41 the question of the development and adoption of a policy to provide for a
42 school term consisting of school hours, are not included within the
43 meaning of terms and conditions of professional service and are not

1 subject to professional negotiation.

2 ~~(m)~~ (k) "Secretary" means the secretary of labor or a designee thereof.

3 ~~(n)~~ (l) "Statutory declaration of impasse date" means June 1 in the
4 current school year.

5 ~~(o)~~ (m) "Supplemental contracts" means contracts for employment
6 duties other than those services covered in the principal or primary
7 contract of employment of the professional employee and shall include,
8 but not be limited to, such services as coaching, supervising, directing and
9 assisting extracurricular activities, chaperoning, ticket-taking, lunchroom
10 supervision, and other similar and related activities.

11 Sec. 3. K.S.A. 72-5420 is hereby amended to read as follows: 72-
12 5420. In each case where the question is in issue, the secretary shall
13 decide, on the basis of the community of interest between and among the
14 professional employees of the board of education, the wishes of the
15 professional employees ~~and/or~~ and the established practices among the
16 professional employees including, among other things, the extent to which
17 such professional employees have joined a professional employees'
18 organization, whether the unit appropriate for the purposes of professional
19 negotiation shall consist of all persons employed by the board of education
20 who are engaged in teaching or performing other duties of an educational
21 nature, or some subdivision thereof, except that a unit including classroom
22 teachers shall not be appropriate unless it includes all such teachers
23 employed by the board of education.

24 Sec. 4. K.S.A. 72-5422 is hereby amended to read as follows: 72-
25 5422. (a) Except as otherwise expressly provided ~~herein~~ by law, this act
26 shall not operate so as to annul, modify or preclude the renewal or
27 continuation of any lawful agreement ~~heretofore~~ entered into between a
28 board of education and a professional employees' organization covering
29 terms and conditions of professional service.

30 (b) *Any agreement entered into between a board of education and a*
31 *professional employees' organization prior to July 1, 2015, shall continue*
32 *beyond such date if the express terms of such agreement provide for a date*
33 *upon which the agreement terminates or expires that is on or after July 1,*
34 *2015. In no event shall any such agreement be extended beyond any such*
35 *termination date provided therein, nor shall any such agreement be*
36 *renewed or otherwise continue to be in effect beyond any such termination*
37 *date.*

38 Sec. 5. K.S.A. 72-5423 is hereby amended to read as follows: 72-
39 5423. (a) Nothing in this act, ~~or the act of which this section is~~
40 ~~amendatory~~, shall be construed to change or affect any right or duty
41 conferred or imposed by law upon any board of education, except that
42 boards of education are required to comply with this act, ~~and the act of~~
43 ~~which this section is amendatory~~, in recognizing professional employees'

1 organizations, and when such an organization is recognized, the board of
2 education and the professional employees' organization shall enter into
3 professional negotiations on request of either party at any time during the
4 school year prior to issuance or renewal of the annual teachers' contracts.
5 Notices to negotiate on new items or to amend an existing contract must be
6 filed on or before February 1 in any school year by either party, such
7 notices shall be in writing and delivered to the chief administrative officer
8 of the board of education or to the representative of the bargaining unit and
9 shall contain in reasonable and understandable detail the purpose of the
10 new or amended items desired.

11 *(b) Negotiations between a board of education and a professional*
12 *employees' organization shall be limited to terms and conditions of*
13 *professional service.*

14 ~~(b) (c) Except as otherwise expressly provided in this subsection,~~
15 ~~every meeting, conference, consultation and discussion between a~~
16 ~~professional employees' organization or its representatives and a board of~~
17 ~~education or its representatives during the course of professional~~
18 ~~negotiation and every hearing conducted by the secretary under K.S.A. 72-~~
19 ~~5426, and amendments thereto, for determination of the question of the~~
20 ~~existence of impasse is subject to the provisions of the Kansas open~~
21 ~~meetings law, and any amendments or supplements thereto. Meetings,~~
22 ~~conferences, consultations and discussions held by the secretary under~~
23 ~~K.S.A. 72-5426, and amendments thereto, for investigation of the question~~
24 ~~of the existence of impasse, and meetings, conferences, consultations and~~
25 ~~discussions held during the course of and in connection with, and the~~
26 ~~meeting required at the conclusion of, impasse resolution proceedings, as~~
27 ~~provided for in K.S.A. 72-5427 and 72-5428, and amendments to such~~
28 ~~sections, are specifically made exempt from the provisions of the Kansas~~
29 ~~open meetings law, and any amendments or supplements thereto.~~

30 ~~(e) (d) Nothing in this act, or the act of which this section is~~
31 ~~amendatory, shall be construed to authorize a strike by professional~~
32 ~~employees.~~

33 *(e) Nothing in this act shall authorize any professional employees'*
34 *organization to be granted the exclusive privilege of access to the use of*
35 *school or college facilities for meetings, the use of bulletin boards on or*
36 *about the facility or the use of school or college mail systems.*

37 *(f) Nothing in this act shall authorize the diminution of any right,*
38 *duty or obligation of either the professional employee or the board of*
39 *education which have been fixed by statute or by the constitution of this*
40 *state.*

41 ~~(d) (g) Any agreement lawfully made under the provisions of this act,~~
42 ~~or the act of which this section is amendatory, may be adopted by~~
43 ~~reference and made a part of the employment contract between any~~

1 professional employee of the applicable negotiating unit and a board of
2 education for a period of not to exceed three years.

3 Sec. 6. K.S.A. 72-5426 is hereby amended to read as follows: 72-
4 5426. (a) ~~If in the course of professional negotiation either the board of~~
5 ~~education or the recognized professional employees' organization, or both,~~
6 ~~believe that an impasse exists therein, either party individually or both~~
7 ~~parties together may file a petition with the secretary, asking the secretary~~
8 ~~to investigate and determine the question of whether an impasse exists in~~
9 ~~professional negotiation and, if a finding that an impasse exists is made, to~~
10 ~~begin impasse resolution procedures as provided in K.S.A. 72-5427 and~~
11 ~~72-5428, and amendments thereto. Within the five days immediately~~
12 ~~following the date of filing, excluding Saturdays, Sundays and legal~~
13 ~~holidays, the secretary shall begin investigation of the question raised by~~
14 ~~the petition and in order to determine the question may meet with the~~
15 ~~parties or their representatives or both, either jointly or separately, and may~~
16 ~~hold such conferences, consultations and discussions therewith as the~~
17 ~~secretary deems necessary. If the secretary decides on the basis of the~~
18 ~~investigation that a hearing is necessary to determine the question, the~~
19 ~~secretary shall conduct the hearing immediately in accordance with the~~
20 ~~provisions of the Kansas administrative procedure act.~~

21 (b) ~~If the secretary finds that no impasse exists in professional~~
22 ~~negotiation between the parties, the secretary shall order the parties to~~
23 ~~continue professional negotiation.~~

24 (c) ~~If the secretary finds that an impasse exists in professional~~
25 ~~negotiation between the parties, the secretary shall begin impasse~~
26 ~~resolution procedures in accordance with K.S.A. 72-5427 and 72-5428,~~
27 ~~and amendments thereto.~~

28 (d) ~~Notwithstanding the foregoing provisions of this section, An~~
29 ~~impasse is deemed to exist if the board of education and the recognized~~
30 ~~professional employees' organization have not reached agreement with~~
31 ~~respect to the terms and conditions of professional service by the statutory~~
32 ~~declaration of impasse date and, on such date, the parties shall jointly file a~~
33 ~~notice of the existence of impasse with the secretary. Upon receipt of such~~
34 ~~joint notice, the secretary shall begin impasse resolution procedures in~~
35 ~~accordance with K.S.A. 72-5427 and 72-5428, and amendments thereto.~~

36 (e) ~~Nothing in this act, or in the act of which this section is~~
37 ~~amendatory, shall be construed or applied in any manner so as to prevent~~
38 ~~the parties from voluntarily engaging in professional negotiation during~~
39 ~~the course, or at the conclusion, of impasse resolution proceedings.~~

40 (b) *If an impasse exists, the board of education shall take such action*
41 *as it deems in the public interest, including the interest of the professional*
42 *employees involved, and shall make such action public.*

43 Sec. 7. K.S.A. 72-5428a is hereby amended to read as follows: 72-

1 5428a. No board of education, which engages in professional negotiation
2 with representatives of a recognized professional employees' organization,
3 is permitted to issue a unilateral contract until ~~the negotiations process as~~
4 ~~described in the Kansas professional negotiation law is fully completed~~ *an*
5 *impasse exists.*

6 Sec. 8. K.S.A. 72-5430 is hereby amended to read as follows: 72-
7 5430. (a) The commission of any prohibited practice, as defined in this
8 section, among other actions, shall constitute evidence of bad faith in
9 professional negotiation.

10 (b) It shall be a prohibited practice for a board of education or its
11 designated representative willfully to:

12 (1) Interfere with, restrain or coerce professional employees in the
13 exercise of rights granted in K.S.A. 72-5414, *and amendments thereto;*

14 (2) dominate, interfere or assist in the formation, existence, or
15 administration of any professional employees' organization;

16 (3) discriminate in regard to hiring or any term or condition of
17 employment to encourage or discourage membership in any professional
18 employees' organization;

19 (4) discharge or discriminate against any professional employee
20 because such professional employee has filed any affidavit, petition or
21 complaint or given any information or testimony under this act, or because
22 such professional employee has formed, joined or chosen to be represented
23 by any professional employees' organization;

24 (5) refuse to negotiate in good faith with representatives of
25 recognized professional employees' organizations as required in K.S.A.
26 72-5423, and amendments thereto;

27 (6) deny the rights accompanying recognition of a professional
28 employees' organization which are granted in K.S.A. 72-5415, *and*
29 *amendments thereto; or*

30 (7) ~~refuse to participate in good faith in the mediation as provided in~~
31 ~~K.S.A. 72-5427 or fact-finding efforts as provided in K.S.A. 72-5428 or~~
32 ~~arbitration pursuant to an agreement entered into pursuant to K.S.A. 72-~~
33 ~~5424; or~~

34 (8) institute or attempt to institute a lockout.

35 (c) It shall be a prohibited practice for professional employees or
36 professional employees' organizations or their designated representatives
37 willfully to:

38 (1) Interfere with, restrain or coerce professional employees in the
39 exercise of rights granted in K.S.A. 72-5414, *and amendments thereto;*

40 (2) interfere with, restrain or coerce a board of education with respect
41 to rights or duties which are reserved thereto under K.S.A. 72-5423, and
42 amendments thereto, or with respect to selecting a representative for the
43 purpose of professional negotiation or the adjustment of grievances;

1 (3) refuse to negotiate in good faith with the board of education or its
2 designated representatives as required in K.S.A. 72-5423, and amendments
3 thereto; *or*

4 ~~(4) refuse to participate in good faith in the mediation as provided in~~
5 ~~K.S.A. 72-5427 or fact-finding efforts as provided in K.S.A. 72-5428 or~~
6 ~~arbitration pursuant to an agreement entered into pursuant to K.S.A. 72-~~
7 ~~5424; or~~

8 ~~(5)~~ authorize, instigate, aid or engage in a strike or in picketing of any
9 facility under the jurisdiction and control of the board of education.

10 Sec. 9. K.S.A. 2014 Supp. 72-5430a is hereby amended to read as
11 follows: 72-5430a. (a) Any controversy concerning prohibited practices
12 may be submitted to the secretary. Proceedings against the party alleged to
13 have committed a prohibited practice shall be commenced within six
14 months of the date of the alleged practice by service upon it by the
15 secretary of a written notice, together with a copy of the charges. The
16 accused party shall have 20 days within which to serve a written answer to
17 the charges, unless the secretary determines an emergency exists and
18 requires the accused party to serve a written answer to the charges within
19 24 hours of receipt. Hearings on prohibited practices shall be conducted in
20 accordance with the provisions of the Kansas administrative procedure act.
21 If the board determines an emergency exists, the board shall follow the
22 procedures contained in K.S.A. 77-536, and amendments thereto. A strike
23 or lockout shall be construed to be an emergency.

24 (b) The secretary shall either dismiss the complaint or determine that
25 a prohibited practice has been or is being committed, and shall enter a final
26 order granting or denying in whole or in part the relief sought. Any action
27 of the secretary pursuant to this subsection is subject to review and
28 enforcement in accordance with the Kansas judicial review act. Venue of
29 the action for review is the judicial district where the principal offices of
30 the pertinent board of education are located.

31 The action for review shall be by trial de novo with or without a jury in
32 accordance with the provisions of K.S.A. 60-238, and amendments
33 thereto, and the court may, in its discretion, permit any party or the
34 secretary to submit additional evidence on any issue. The action for
35 review shall be heard and determined by the court as expeditiously as
36 possible.

37 (c) If there is an alleged violation of either ~~subsection (b)(8) or (c)(5)~~
38 ~~of K.S.A. 72-5430(b)(7) or (c)(4)~~, and amendments thereto, the aggrieved
39 party or the secretary is authorized to seek relief in district court.

40 Sec. 10. K.S.A. 2014 Supp. 72-5432 is hereby amended to read as
41 follows: 72-5432. (a) The secretary of labor may adopt such rules and
42 regulations as are necessary to implement and administer the provisions of
43 K.S.A. 72-5413 through ~~72-5431~~ 72-5430a, and amendments thereto,

1 which place specific duties and responsibilities upon the secretary.

2 (b) Any rules and regulations adopted by the secretary of labor prior
3 to the effective date of this act to implement and administer the provisions
4 of K.S.A. 72-5413 through ~~72-5431~~ 72-5430a, and amendments thereto,
5 shall remain in full force and effect until amended, modified, suspended,
6 revoked or nullified pursuant to law.

7 (c) The secretary of labor has the power to issue subpoenas requiring
8 the attendance of any witnesses and the production of any records, books,
9 papers and documents that the secretary considers necessary to implement
10 and administer the provisions of K.S.A. 72-5413 through ~~72-5431~~ 72-
11 5430a, and amendments thereto, which place specific duties and
12 responsibilities upon the secretary. In the event of refusal to obey a
13 subpoena on the part of any person or persons, the secretary shall have the
14 authority to bring an action to enforce the subpoena in a court of
15 competent jurisdiction.

16 Sec. 11. K.S.A. 2014 Supp. 77-618 is hereby amended to read as
17 follows: 77-618. Judicial review of disputed issues of fact shall be
18 confined to the agency record for judicial review as supplemented by
19 additional evidence taken pursuant to this act, except that review of:

20 (a) Orders of the director of workers' compensation under the
21 workmen's compensation act shall be in accordance with K.S.A. 44-556,
22 and amendments thereto;

23 (b) orders of the Kansas human rights commission under the Kansas
24 act against discrimination or the Kansas age discrimination in employment
25 act shall be in accordance with K.S.A. 44-1011 and 44-1021, and
26 amendments thereto;

27 (c) orders of the division of vehicles, other than orders under K.S.A.
28 8-254, and amendments thereto, which deny, cancel, suspend or revoke a
29 driver's license shall be in accordance with K.S.A. 8-259, and amendments
30 thereto;

31 (d) orders of the secretary of labor under K.S.A. 72-5413 through ~~72-~~
32 ~~5431~~ 72-5430a, and amendments thereto, shall be in accordance with
33 K.S.A. 72-5430a, and amendments thereto; and

34 (e) orders of the state fire marshal under K.S.A. 31-144, and
35 amendments thereto, shall be in accordance with that section.

36 Sec. 12. K.S.A. 72-5420, 72-5422, 72-5423, 72-5424, 72-5426, 72-
37 5428, 72-5428a, 72-5429, 72-5430 and 72-5431 and K.S.A. 2014 Supp.
38 45-229, 72-5413, 72-5427, 72-5430a, 72-5432 and 77-618 are hereby
39 repealed.

40 Sec. 13. This act shall take effect and be in force from and after its
41 publication in the statute book.