

{As Amended by House Committee of the Whole}

Special Session of 2020

HOUSE BILL No. 2016

By Committee on Judiciary

6-3

1 AN ACT concerning governmental response to the 2020 COVID-19
2 pandemic in Kansas; providing certain relief related to health, welfare,
3 property and economic security during this public health emergency;
4 making and concerning appropriations for the fiscal years ending June
5 30, 2020, and June 30, 2021, for the governor's department; requiring
6 the state finance council's approval for certain expenditures; relating to
7 the state of disaster emergency; powers of the governor and executive
8 officers; providing certain limitations and restrictions; business and
9 commercial activities; violations of the Kansas emergency management
10 act; relating to the closure of schools by executive order; requiring state
11 board of education approval prior to any such closure; enacting the
12 COVID-19 response and reopening for business liability protection act;
13 relating to limitations on liability associated with the COVID-19 public
14 health emergency; providing immunity from civil liability for certain
15 healthcare providers during the COVID-19 public health emergency;
16 providing an affirmative defense for adult care homes; enacting the
17 COVID-19 contact tracing privacy act; relating to privacy of persons
18 whose information is collected through contact tracing and the
19 confidentiality of contact data; authorizing the secretary of health and
20 environment and local health officers to establish and operate systems
21 of contact tracing during the COVID-19 pandemic; validating certain
22 notarial acts performed while the requirements that a person must
23 appear before a notary public are suspended; requiring local health
24 officers to share certain information with first responder agencies and
25 911 call centers; imposing requirements on the Kansas department for
26 aging and disability services related to infection prevention and control
27 practices and recommendations, infection control inspections and
28 providing personal protective equipment; authorizing the expanded use
29 of telemedicine in response to the COVID-19 public health emergency
30 and imposing requirements related thereto; suspending certain
31 requirements related to medical care facilities and expiring such
32 provisions; providing for temporary suspension of certain healthcare
33 professional licensing and practice requirements; delegation and
34 supervision requirements; conditions of licensure and renewal and
35 reinstatement of licensure; relating to authorized use of two-way
36 electronic audiovisual communication by courts to secure the health

1 and safety of court users, staff and judicial officers; authorizing the
 2 temporary sale of alcoholic liquor for consumption off of certain
 3 licensed premises; relating to changes in the employment security law
 4 in response to the COVID-19 public health emergency; eligibility for
 5 benefits; contribution rates; federal reimbursement; employer
 6 notifications; shared work plan eligibility; authorizing counties to adopt
 7 orders relating to public health that are less stringent than statewide
 8 executive orders; relating to review, amendment or revocation of local
 9 disaster orders by the board of county commissioners; review,
 10 amendment or revocation of local disaster orders of a mayor by a city
 11 governing body; relating to local health officers; appointment, removal,
 12 powers and duties; providing for severability of this act; amending
 13 section 1 of 2020 House Substitute for Senate Bill No. 102, K.S.A. 48-
 14 924, 48-932, 48-939, 65-201, 65-202 and 65-468 and K.S.A. 2019
 15 Supp. 19-101a, 41-2653, 44-702, 44-705, as amended by section 2 of
 16 2020 Senate Bill No. 27, 44-709, 44-710, 44-757, 48-925 and 48-925,
 17 as amended by section 33 of this act, and repealing the existing
 18 sections.
 19

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

21 Section 1.

22 GOVERNOR'S DEPARTMENT

23 (a) There is appropriated for the above agency from the following
 24 special revenue fund or funds for the fiscal year ending June 30, 2020, all
 25 moneys now or hereafter lawfully credited to and available in such fund or
 26 funds, except that expenditures other than refunds authorized by law shall
 27 not exceed the following:

28 Coronavirus relief fund - federal fund (252-00-3753).....No limit

29 *Provided*, That all moneys in the coronavirus relief fund - federal fund
 30 shall be used for the purposes of relief for the effects of coronavirus in the
 31 state of Kansas as set forth in such federal grant or receipt: *Provided*
 32 *further*, That, notwithstanding any law to the contrary, during the fiscal
 33 year ending June 30, 2020, no moneys shall be disbursed or expended
 34 from the coronavirus relief fund - federal fund by the above agency
 35 without the approval of the governor and a majority of the legislative
 36 members of the state finance council acting on this matter, which is hereby
 37 characterized as a matter of legislative delegation and subject to the
 38 guidelines prescribed in K.S.A. 75-3711c(c), and amendments thereto,
 39 except that such disbursements and expenditures may also be approved
 40 while the legislature is in session: *And provided further*, That the state
 41 finance council is hereby authorized to approve the disbursement and
 42 expenditure of moneys from the coronavirus relief fund - federal fund for
 43 such purposes.

1 Sec. 2.

2 GOVERNOR'S DEPARTMENT

3 (a) There is appropriated for the above agency from the following
4 special revenue fund or funds for the fiscal year ending June 30, 2021, all
5 moneys now or hereafter lawfully credited to and available in such fund or
6 funds, except that expenditures other than refunds authorized by law shall
7 not exceed the following:

8 Coronavirus relief fund - federal fund (252-00-3753).....No limit

9 *Provided*, That all moneys in the coronavirus relief fund - federal fund
10 shall be used for the purposes of relief for the effects of coronavirus in the
11 state of Kansas as set forth in such federal grant or receipt: *Provided*
12 *further*, That, notwithstanding any law to the contrary, during the fiscal
13 year ending June 30, 2021, no moneys shall be disbursed or expended
14 from the coronavirus relief fund - federal fund by the above agency
15 without the approval of the governor and a majority of the legislative
16 members of the state finance council acting on this matter, which is hereby
17 characterized as a matter of legislative delegation and subject to the
18 guidelines prescribed in K.S.A. 75-3711c(c), and amendments thereto,
19 except that such disbursements and expenditures may also be approved
20 while the legislature is in session: *And provided further*, That the state
21 finance council is hereby authorized to approve the disbursement and
22 expenditure of moneys from the coronavirus relief fund - federal fund for
23 such purposes.

24 Sec. 3. (a) On the effective date of this act, notwithstanding the
25 provisions of section 189 of chapter 68 of the 2019 Session Laws of
26 Kansas for fiscal year 2020 and section 179 of 2020 Senate Bill No. 66 for
27 fiscal year 2021, for fiscal year 2020 and fiscal year 2021 concerning each
28 federal grant or other federal receipt that is received by a state agency
29 named in chapter 68 of the 2019 Session Laws of Kansas or 2020 Senate
30 Bill No. 66, that concerns moneys from the federal government for aid to
31 the state of Kansas for coronavirus relief as appropriated in section 601(c)
32 (2)(A) of the federal CARES act, public law 116-136, and that is not
33 otherwise appropriated to that state agency for fiscal year 2020 or 2021 by
34 chapter 68 of the 2019 Session Laws of Kansas, 2020 Senate Bill No. 66
35 or this appropriation act of the 2020 special session of the legislature, such
36 federal grant or other federal receipt is hereby appropriated for fiscal year
37 2020 and fiscal year 2021 to the coronavirus relief fund - federal fund
38 (252-00-3753) of the governor's department for the purpose set forth in
39 such federal grant or receipt and subject to the provisions of section 1 and
40 2: *Provided, however*, That if the provisions of a federal grant or receipt
41 require the related federal moneys to be placed in a separate special
42 revenue fund or an existing special revenue fund, such federal moneys
43 shall be credited to such fund, but any such disbursement and expenditure

1 of such federal moneys shall be subject to the provisions of sections 1 and
2 2, including any existing special revenue fund that was appropriated as a
3 no-limit fund in chapter 68 of the 2019 Session Laws of Kansas for fiscal
4 year 2020 and 2020 Senate Bill No. 66 for fiscal year 2021.

5 (b) On the effective date of this act, the provisions of section 189 of
6 chapter 68 of the 2019 Session Laws of Kansas for fiscal year 2020 and
7 section 179 of 2020 Senate Bill No. 66 for fiscal year 2021, for fiscal year
8 2020 and fiscal year 2021 concerning each federal grant or other federal
9 receipt that is received by a state agency named in chapter 68 of the 2019
10 Session Laws of Kansas or 2020 Senate Bill No. 66 and that concerns
11 moneys from the federal government for aid to the state of Kansas for
12 coronavirus relief as appropriated in section 601(c)(2)(A) of the federal
13 CARES act, public law 116-136, shall be null and void and shall have no
14 force and effect.

15 Sec. 4. (a) On the effective date of this act, notwithstanding the
16 provisions of section 189 of chapter 68 of the 2019 Session Laws of
17 Kansas for fiscal year 2020 and section 179 of 2020 Senate Bill No. 66 for
18 fiscal year 2021, in addition to the other purposes for which expenditures
19 may be made by any state agency that is named in chapter 68 of the 2019
20 Session Laws of Kansas or 2020 Senate Bill No. 66, expenditures may be
21 made by such state agency from moneys appropriated for fiscal year 2020
22 and fiscal year 2021 by chapter 68 of the 2019 Session Laws of Kansas,
23 2020 Senate Bill No. 66 or this appropriation act of the 2020 special
24 session of the legislature to apply for and receive federal grants during
25 fiscal year 2020 and fiscal year 2021, that federal grants are hereby
26 authorized to be applied for and received by such state agencies that
27 concern moneys from the federal government for aid to the state of Kansas
28 for coronavirus relief as appropriated in the federal CARES act, public law
29 116-136, the federal coronavirus preparedness and response supplemental
30 appropriations act, 2020, public law 116-123, the federal families first
31 coronavirus response act, public law 116-127, the federal paycheck
32 protection program and health care enhancement act, public law 116-139
33 and any other federal law that appropriates moneys to the state for aid for
34 coronavirus relief, subject to the following provisions: *Provided*, That no
35 expenditure shall be made from and no obligation shall be incurred against
36 any such federal grant or other federal receipt that has not been previously
37 appropriated or reappropriated, until the state finance council has
38 authorized the state agency to make expenditures therefrom: *Provided*
39 *further*, That such requests may be approved by the governor and a
40 majority of the legislative members of the state finance council acting on
41 this matter, which is hereby characterized as a matter of legislative
42 delegation and subject to the guidelines prescribed in K.S.A. 75-3711c(c),
43 and amendments thereto, except that such disbursements and expenditures

1 may also be approved while the legislature is in session: *And provided*
2 *further*; That the state finance council is hereby authorized to approve the
3 requests for such purposes: *And provided further*; That upon receipt of such
4 approval by the state finance council, the requesting state agency is
5 authorized to expend all approved moneys now or hereafter lawfully
6 credited to and available in such fund or funds during fiscal year 2020 and
7 fiscal year 2021.

8 (b) During the fiscal years ending June 30, 2020, and June 30, 2021,
9 notwithstanding the provisions of any other law, executive order or
10 executive directive, no expenditure shall be made from and no obligation
11 shall be incurred against any coronavirus relief fund – federal fund created
12 by executive directive No. 20-517 or any other executive order or
13 executive directive that is created for any state agency to receive and
14 expend federal moneys for aid to the state of Kansas for coronavirus relief
15 until the state finance council has approved such expenditure or obligation
16 as provided in subsection (a).

17 (c) On the effective date of this act, the provisions of section 189 of
18 chapter 68 of the 2019 Session Laws of Kansas for fiscal year 2020 and
19 section 179 of 2020 Senate Bill No. 66, for fiscal year 2020 and fiscal year
20 2021 concerning each federal grant or other federal receipt that is received
21 by a state agency named in chapter 68 of the 2019 Session Laws of Kansas
22 or 2020 Senate Bill No. 66 and that concerns moneys from the federal
23 government for aid to the state of Kansas for coronavirus relief as
24 appropriated in the federal CARES act, public law 116-136, the federal
25 coronavirus preparedness and response supplemental appropriations act,
26 2020, public law 116-123, the federal families first coronavirus response
27 act, public law 116-127, the federal paycheck protection program and
28 health care enhancement act, public law 116-139 and any other federal law
29 that appropriates moneys to the state for aid for coronavirus relief, shall be
30 null and void and shall have no force and effect.

31 New Sec. 5. (a) The state of disaster emergency that was declared by
32 the governor pursuant to K.S.A. 48-924, and amendments thereto, as a
33 result of the COVID-19 health emergency, by proclamation on March 12,
34 2020, which was ratified and continued in force and effect through May 1,
35 2020, by 2020 House Concurrent Resolution No. 5025, adopted by the
36 house of representatives with the senate concurring therein on March 19,
37 2020, declared by proclamation on April 30, 2020, which was extended
38 and continued in existence by the state finance council on May 13, 2020,
39 for an additional 12 days through May 26, 2020, and declared by
40 proclamation on May 26, 2020, for all 105 counties of Kansas, is hereby
41 ratified and continued in existence from March 12, 2020, through
42 September 15, 2020.

43 (b) The governor shall not proclaim any new state of disaster

1 emergency related to the COVID-19 health emergency during 2020, unless
2 the governor makes specific application to the state finance council and an
3 affirmative vote of at least six of the legislative members of the council
4 approve such action by the governor.

5 New Sec. 6. (a) On and after September 15, 2020, during any state of
6 disaster emergency declared pursuant to K.S.A. 48-924, and amendments
7 thereto, the governor may not order the closure or cessation of any
8 business or commercial activity, whether for-profit or not-for-profit, for
9 more than 15 days. At least 24 hours prior to the issuance of such order,
10 the governor shall call a meeting of the state finance council for the
11 purpose of consulting with the council regarding the conditions
12 necessitating the issuance of such order. After such initial order or orders
13 providing for the closure or cessation of any business or commercial
14 activity have resulted in 15 days of such closures or cessation of business
15 or commercial activity, the governor may not order the closure or cessation
16 of business or commercial activity, except upon specific application by the
17 governor to the state finance council and an affirmative vote of at least six
18 of the legislative members of the council, the governor may order the
19 closure or cessation of business or commercial activity as approved by the
20 council for specified periods not to exceed 30 days each.

21 (b) Any order issued that violates or exceeds the restrictions provided
22 in subsection (a) shall not have the force and effect of law during the
23 period of a state of disaster emergency declared under K.S.A. 48-924(b),
24 and amendments thereto, and any such order shall be null and void.

25 (c) The provisions of this section shall expire on January 26, 2021.

26 New Sec. 7. Notwithstanding any other provision of law to the
27 contrary, no executive order issued by the governor pursuant to K.S.A. 48-
28 925, and amendments thereto, that has the effect of closing public or
29 private school attendance centers in this state shall be effective unless and
30 until such order has been affirmed by the state board of education by
31 adoption of a resolution by a majority of the members of the state board.
32 Prior to issuing any such executive order, the governor shall submit such
33 proposed executive order to the state board of education. Upon receipt of
34 such proposed executive order, the state board shall meet as soon as
35 reasonably possible to review such proposed order and, if a majority of the
36 members of the state board determines such order is in the best interests of
37 the students in this state, to adopt a resolution affirming such proposed
38 executive order.

39 New Sec. 8. Sections 8 through 15, and amendments thereto, shall be
40 known and may be cited as the COVID-19 response and reopening for
41 business liability protection act.

42 New Sec. 9. As used in the COVID-19 response and reopening for
43 business liability protection act, unless the context otherwise requires:

1 (a) "Adult care facility" means a "nursing facility," "assisted living
2 facility" or "residential healthcare facility" as those terms are defined in
3 K.S.A. 39-923, and amendments thereto.

4 (b) "COVID-19" means the novel coronavirus identified as SARS-
5 CoV-2.

6 (c) "COVID-19 claim" means any claim for damages, losses,
7 indemnification, contribution or other relief arising out of or based on
8 exposure or potential exposure to COVID-19. "COVID-19 claim" includes
9 a claim made by or on behalf of any person who has been exposed or
10 potentially exposed to COVID-19, or any representative, spouse, parent,
11 child or other relative of such person, for injury, including mental or
12 emotional injury, death or loss to person, risk of disease or other injury,
13 costs of medical monitoring or surveillance, or other losses allegedly
14 caused by the person's exposure or potential exposure to COVID-19.

15 (d) "COVID-19 public health emergency" means the state of disaster
16 emergency declared for the state of Kansas on March 12, 2020, any
17 subsequent orders or amendments to such orders and any subsequent
18 disaster emergency declared for the state of Kansas regarding the COVID-
19 19 pandemic.

20 (e) "Disinfecting or cleaning supplies" includes, but is not limited to,
21 hand sanitizers, disinfectants, sprays and wipes.

22 (f) "Healthcare provider" means a person or entity that is licensed,
23 registered, certified or otherwise authorized by the state of Kansas to
24 provide healthcare services in this state, including a hospice certified to
25 participate in the medicare program under 42 C.F.R. § 418 et seq.
26 "Healthcare provider" does not include any entity licensed under chapter
27 39 of the Kansas Statutes Annotated, and amendments thereto.

28 (g) "Person" means an individual, for-profit or not-for-profit business
29 entity, business trust, estate, trust, partnership, limited liability company,
30 association, joint venture, public corporation, government or political
31 subdivision, agency or instrumentality or any other legal or commercial
32 entity.

33 (h) "Personal protective equipment" means coveralls, face shields,
34 gloves, gowns, masks, respirators or other equipment designed to protect
35 the wearer from the spread of infection or illness.

36 (i) "Product liability claim" means any strict liability, ordinary
37 negligence or implied warranty claim or action brought for harm caused by
38 the manufacture, production, making, construction, fabrication, design,
39 formula, preparation, assembly, installation, testing, warnings, instructions,
40 marketing, packaging, storage or labeling of the relevant product.

41 (j) "Public health directives" means any of the following that is
42 required by law to be followed related to public health and COVID-19:

43 (1) State statutes, rules and regulations or executive orders issued by

1 the governor pursuant to K.S.A. 48-925, and amendments thereto;

2 (2) federal statutes or regulations from federal agencies, including the
3 United States centers for disease control and prevention and the
4 occupational safety and health administration of the United States
5 department of labor; or

6 (3) any lawful order or proclamation issued under authority of the
7 Kansas emergency management act, and amendments thereto, by a board
8 of county commissioners, the governing body of a city or a local health
9 officer.

10 (k) "Qualified product" means: (1) Personal protective equipment
11 used to protect the wearer from COVID-19 or the spread of COVID-19;
12 (2) medical devices, equipment and supplies used to treat COVID-19,
13 including products that are used or modified for an unapproved use to treat
14 COVID-19 or prevent the spread of COVID-19; (3) medical devices,
15 equipment or supplies utilized outside of the product's normal use to treat
16 COVID-19 or to prevent the spread of COVID-19; (4) medications used to
17 treat COVID-19, including medications prescribed or dispensed for
18 offlabel use to attempt to combat COVID-19; (5) tests used to diagnose or
19 determine immunity to COVID-19; (6) disinfecting or cleaning supplies;
20 (7) clinical laboratory services certified under the federal clinical
21 laboratory improvement amendments in section 353 of the public health
22 service act, 42 U.S.C. § 263a; and (8) components of qualified products.

23 New Sec. 10. (a) Notwithstanding any other provision of law, except
24 as provided in subsection (c), a healthcare provider is immune from civil
25 liability for damages, administrative fines or penalties for acts, omissions,
26 healthcare decisions or the rendering of or the failure to render healthcare
27 services, including services that are altered, delayed or withheld, as a
28 direct response to any state of disaster emergency declared pursuant to
29 K.S.A. 48-924, and amendments thereto, related to the COVID-19 public
30 health emergency.

31 (b) The provisions of this section shall apply to any claims for
32 damages or liability that arise out of or relate to acts, omissions or
33 healthcare decisions occurring during any state of disaster emergency
34 declared pursuant to K.S.A. 48-924, and amendments thereto, related to
35 the COVID-19 public health emergency.

36 (c) (1) The provisions of this section shall not apply to civil liability
37 when it is established that the act, omission or healthcare decision
38 constituted gross negligence or willful, wanton or reckless conduct.

39 (2) The provisions of this section shall not apply to healthcare
40 services not related to COVID-19 that have not been altered, delayed or
41 withheld as a direct response to the COVID-19 public health emergency.

42 New Sec. 11. (a) Notwithstanding any other provision of law, a
43 person, or an agent of such person, conducting business in this state shall

1 be immune from liability in a civil action for a COVID-19 claim if such
2 person was acting pursuant to and in substantial compliance with public
3 health directives applicable to the activity giving rise to the cause of action
4 when the cause of action accrued.

5 (b) The provisions of this section shall expire on January 26, 2021.

6 New Sec. 12. Notwithstanding any other provision of law, a person
7 who designs, manufactures, labels, sells, distributes, provides or donates a
8 qualified product in response to the COVID-19 public health emergency
9 shall be immune from liability in a civil action alleging a product liability
10 claim arising out of such qualified product if:

11 (a) The product was manufactured, labeled, sold, distributed,
12 provided or donated at the specific request of or in response to a written
13 order or other directive finding a public need for a qualified product issued
14 by the governor, the adjutant general or the division of emergency
15 management; and

16 (b) the damages are not occasioned by willful, wanton or reckless
17 disregard of a known, substantial and unnecessary risk that the product
18 would cause serious injury to others.

19 New Sec. 13. (a) Notwithstanding any other provision of law, an adult
20 care facility shall have an affirmative defense to liability in a civil action
21 for damages, administrative fines or penalties for a COVID-19 claim if
22 such facility:

23 (1) (A) Was caused, by the facility's compliance with a statute or rule
24 and regulation, to reaccept a resident who had been removed from the
25 facility for treatment of COVID-19; or

26 (B) treats a resident who has tested positive for COVID-19 in such
27 facility in compliance with a statute or rule and regulation; and

28 (2) is acting pursuant to and in substantial compliance with public
29 health directives.

30 (b) As used in this section, "public health directives" means any of
31 the following that is required by law to be followed related to public health
32 and COVID-19:

33 (1) State statutes, rules and regulations or executive orders issued by
34 the governor pursuant to K.S.A. 48-925, and amendments thereto; or

35 (2) federal statutes or regulations from federal agencies, including the
36 United States centers for disease control and prevention and the
37 occupational safety and health administration of the United States
38 department of labor.

39 New Sec. 14. Nothing in the COVID-19 response and reopening for
40 business liability protection act:

41 (a) Creates, recognizes or ratifies a claim or cause of action of any
42 kind;

43 (b) eliminates a required element of any claim;

1 (c) affects workers' compensation law, including the exclusive
2 application of such law; or

3 (d) amends, repeals, alters or affects any other immunity or limitation
4 of liability.

5 New Sec. 15. (a) The provisions of sections 11, 12 and 14, and
6 amendments thereto, shall apply retroactively to any cause of action
7 accruing on or after March 12, 2020.

8 (b) The provisions of sections 10 and 13, and amendments thereto,
9 shall apply retroactively to any cause of action accruing on or after March
10 12, 2020, and prior to termination of the state of disaster emergency
11 related to the COVID-19 public health emergency declared pursuant to
12 K.S.A. 48-924, and amendments thereto.

13 New Sec. 16. (a) This section shall be known and may be cited as the
14 COVID-19 contact tracing privacy act.

15 (b) The purpose of this act is to protect the privacy of persons whose
16 information is collected through contact tracing and the confidentiality of
17 contact data.

18 (c) (1) Except as provided by paragraph (2), neither the state nor any
19 municipality, officer or official or agent thereof, may conduct or authorize
20 contact tracing.

21 (2) Whenever the secretary or a local health officer determines
22 contact tracing is necessary to perform a public health duty assigned by
23 statute to such official, the secretary or local health officer may conduct or
24 authorize contact tracing as provided by this section.

25 (d) (1) Subject to the availability of appropriations, the secretary or
26 local health officer may employ, contract for or engage contact tracers.

27 (2) Persons acting as contact tracers under authority of this subsection
28 shall meet the qualifications and training prescribed by rules and
29 regulations of the secretary adopted pursuant to subsection (j). Until such
30 rules and regulations are adopted, but no later than August 1, 2020,
31 persons acting as contact tracers may act under the supervision of the
32 secretary and in compliance with the other provisions of this act.

33 (3) (A) Before collecting any contact data, each person acting as a
34 contact tracer shall execute, under oath, on a form prescribed by rules and
35 regulations of the secretary adopted pursuant to subsection (j) an
36 acknowledgment of familiarity with this section and the duties it imposes
37 upon such person, including the duty of confidentiality.

38 (B) The state or municipal entity hiring, contracting with or engaging
39 the contact tracer shall maintain a copy of each such executed form for not
40 less than one year after such person's duties as a contact tracer end, or
41 pursuant to applicable records retention schedules, whichever is later.

42 (4) A contact tracer employed, contracted or engaged by the secretary
43 shall be deemed a state employee under the Kansas tort claims act, K.S.A.

1 75-6101 et seq., and amendments thereto. A contact tracer employed,
2 contracted or engaged by a local health officer shall be deemed an
3 employee of the county under the Kansas tort claims act, K.S.A. 75-6101
4 et seq., and amendments thereto.

5 (e) (1) A contact tracer shall not disclose the identity of an infected
6 person to a contact.

7 (2) Only contact data specifically authorized by the secretary
8 pursuant to rules and regulations of the secretary adopted pursuant to
9 subsection (j) may be collected as part of contact tracing.

10 (3) The secretary, a local health officer or a contact tracer shall not
11 produce contact data pursuant to a subpoena unless such subpoena is
12 issued by a court and is accompanied by a valid protective order
13 preventing further disclosure of such data;

14 (4) Contact data shall be:

15 (A) Used only for the purpose of contact tracing and not for any other
16 purpose;

17 (B) confidential and shall not be disclosed, produced in response to
18 any Kansas open records act request or made public, unless the disclosure
19 is necessary to conduct contact tracing; and

20 (C) safely and securely destroyed when no longer necessary for
21 contact tracing, pursuant to rules and regulations of the secretary adopted
22 pursuant to subsection (j).

23 (f) (1) Participation in contact tracing shall be voluntary, and no
24 contact or infected person shall be compelled to participate in, nor be
25 prohibited from participating in, contact tracing.

26 (2) Any contact or infected person who in good faith discloses to a
27 contact tracer information requested by such contact tracer under authority
28 of this subsection shall be immune from civil, criminal and administrative
29 liability for such disclosure.

30 (3) No criminal, civil or administrative liability shall arise against a
31 contact or infected person solely due to such person's failure to cooperate
32 in contact tracing conducted pursuant to this subsection.

33 (g) Contact tracing shall not be conducted through the use of any
34 service or means that uses cellphone location data to identify or track,
35 directly or indirectly, the movement of persons.

36 (h) (1) No third party shall be required to collect or maintain data
37 regarding infected persons or contacts for the purpose of contact tracing.

38 (2) Except as provided by paragraph (3), no contact tracer shall obtain
39 contact data related to an infected person or contact from any third party.

40 (3) Contact data voluntarily collected or maintained by a third party
41 may be obtained by a contact tracer only if:

42 (A) The third party provides such information to the contact tracer
43 voluntarily and with the consent of the infected person or contact whose

1 information is disclosed; or

2 (B) such information is provided pursuant to a valid warrant.

3 (i) (1) A person may bring a civil action to enjoin violations of this
4 section.

5 (2) A knowing violation of this section is a class C nonperson
6 misdemeanor.

7 (3) Contact data shall be deemed personal information within the
8 meaning of K.S.A. 50-6,139b(a)(3), and amendments thereto.

9 (4) The remedies provided by this subsection shall be in addition to
10 each other and to any other available civil or criminal remedies authorized
11 by law.

12 (j) The secretary shall promulgate rules and regulations to implement,
13 administer and enforce the provisions of this section prior to August 1,
14 2020.

15 (k) As used in this section, unless the context otherwise requires:

16 (1) "Contact" means a person known to have been in association with
17 an infected person as to have had an opportunity of acquiring an infection.

18 (2) "Contact tracing" means identifying persons who may have been
19 exposed to an infected person for the purpose of containing the spread of
20 COVID-19 by notifying the contact that the contact may have been
21 exposed, should be tested and should self-quarantine.

22 (3) "Contact tracer" means a person or entity employed, contracted or
23 engaged by the department of health and environment or by a local health
24 agency to conduct contact tracing.

25 (4) "COVID-19" means the novel coronavirus identified as SARS-
26 CoV-2.

27 (5) "Contact data" means information collected through contact
28 tracing and includes medical, epidemiological, individual movement or
29 mobility, names or other data.

30 (6) "Infected person" means a person known or reasonably suspected
31 to be infected with COVID-19.

32 (7) "Local health officer" means a person appointed by a county
33 board of health pursuant to K.S.A. 65-201, and amendments thereto.

34 (8) "Municipality" means the same as in K.S.A. 75-6102, and
35 amendments thereto.

36 (9) "Secretary" means the secretary of health and environment.

37 (10) "State" means the same as in K.S.A. 75-6102, and amendments
38 thereto.

39 (l) The provisions of this section shall expire on May 1, 2021.

40 New Sec. 17. All notarial acts performed by a notary public of this
41 state while the requirements that a person must appear before a notary
42 public are suspended pursuant to an executive order or other state law,
43 shall be valid as if the individual had appeared before the notary public,

1 notwithstanding any failure of any individual to appear personally before
2 the notary public, if the notarial act meets all requirements prescribed by
3 such executive order or other state law and all requirements prescribed by
4 law that do not relate to appearance before the notary public.

5 New Sec. 18. (a) During a state of disaster emergency declared under
6 K.S.A. 48-924, and amendments thereto, related to the COVID-19 public
7 health emergency, each local health officer shall work with first responder
8 agencies operating in the county to establish a method to share information
9 indicating where a person testing positive for or under quarantine or
10 isolation due to COVID-19 resides or can be expected to be present. Such
11 information shall:

12 (1) Include the address for such person and, as applicable, the
13 duration of the quarantine, isolation or expected recovery period for such
14 person as determined by the local health officer; and

15 (2) only be used for the purpose of allowing the first responders to be
16 alert to the need for utilizing appropriate personal protective equipment
17 during the response activity.

18 (b) The information described in subsection (a) shall be provided to
19 the 911 call center for the area serving the address provided. The 911 call
20 center shall disseminate the information only to first responders
21 responding to the listed address.

22 (c) All information provided or disseminated under this section shall
23 not be a public record and shall not be subject to the Kansas open records
24 act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this
25 subsection shall expire on July 1, 2025, unless the legislature reviews and
26 reenacts this provision pursuant to K.S.A. 45-229, and amendments
27 thereto.

28 New Sec. 19. The Kansas department for aging and disability
29 services shall, for all entities required to be licensed pursuant to article 9 of
30 chapter 39 of the Kansas Statutes Annotated, and amendments thereto:

31 (a) Promptly, and in no case later than 90 days following the effective
32 date of this act, make or cause to be made infection control inspections;

33 (b) provide the necessary personal protective equipment, sanitizing
34 supplies and testing kits appropriate to the needs of each facility on an
35 ongoing basis, based upon:

36 (1) The current number of residents;

37 (2) the current number of full-time and part-time staff members;

38 (3) the number of residents and staff who have tested positive for
39 COVID-19 in the last 14 days;

40 (4) the ability to separate COVID-19 residents from non-COVID-19
41 residents; and

42 (5) any other factors deemed relevant by the secretary; and

43 (c) ensure that infection prevention and control best practices and

1 recommendations based upon guidance from the United States centers for
2 disease control and prevention and the Kansas department of health and
3 environment are adopted and made available publicly.

4 New Sec. 20. (a) A physician may issue a prescription for or order the
5 administration of medication, including a controlled substance, for a
6 patient without conducting an in-person examination of such patient.

7 (b) A physician under quarantine, including self-imposed quarantine,
8 may practice telemedicine.

9 (c) (1) A physician holding a license issued by the applicable
10 licensing agency of another state may practice telemedicine to treat
11 patients located in the state of Kansas, if such out-of-state physician:

12 (A) Advises the state board of healing arts of such practice in writing
13 and in a manner determined by the state board of healing arts; and

14 (B) holds an unrestricted license to practice medicine and surgery in
15 the other state and is not the subject of any investigation or disciplinary
16 action by the applicable licensing agency.

17 (2) The state board of healing arts may extend the provisions of this
18 subsection to other healthcare professionals licensed and regulated by the
19 board as deemed necessary by the board to address the impacts of COVID-
20 19 and consistent with ensuring patient safety.

21 (d) A physician practicing telemedicine in accordance with this
22 section shall conduct an appropriate assessment and evaluation of the
23 patient's current condition and document the appropriate medical
24 indication for any prescription issued.

25 (e) Nothing in this section shall supersede or otherwise affect the
26 provisions of K.S.A. 65-4a10, and amendments thereto, or K.S.A. 2019
27 Supp. 40-2,215, and amendments thereto.

28 (f) As used in this section:

29 (1) "Physician" means a person licensed to practice medicine and
30 surgery.

31 (2) "Telemedicine" means the delivery of healthcare services by a
32 healthcare provider while the patient is at a different physical location.

33 (g) This section shall expire on January 26, 2021.

34 New Sec. 21. (a) (1) A hospital may admit patients in excess of such
35 hospital's number of licensed beds or inconsistent with the licensed
36 classification of such hospital's beds to the extent that such hospital
37 determines is necessary to treat COVID-19 patients and to separate
38 COVID-19 patients and non-COVID-19 patients.

39 (2) A hospital admitting patients in such manner shall notify the
40 department of health and environment as soon as practicable but shall not
41 be required to receive prior authorization to admit patients in such manner.

42 (b) (1) A hospital may utilize non-hospital space, including off-
43 campus space, to perform COVID-19 testing, triage, quarantine or patient

1 care to the extent that such hospital determines is necessary to treat
2 COVID-19 patients and to separate COVID-19 patients and non-COVID-
3 19 patients.

4 (2) The department of health and environment may impose
5 reasonable safety requirements on such use of non-hospital space to
6 maximize the availability of patient care.

7 (3) Non-hospital space used in such manner shall be deemed to meet
8 the requirements of K.S.A. 65-431(d), and amendments thereto.

9 (4) A hospital utilizing non-hospital space in such manner shall notify
10 the department of health and environment as soon as practicable but shall
11 not be required to receive prior authorization to utilize non-hospital space
12 in such manner.

13 (c) A medical care facility may permit healthcare providers
14 authorized to provide healthcare services in the state of Kansas to provide
15 healthcare services at such medical care facility without becoming a
16 member of the medical care facility's medical staff.

17 (d) As used in this section, "hospital" and "medical care facility"
18 mean the same as defined in K.S.A. 65-425, and amendments thereto.

19 (e) This section shall expire 120 calendar days after the expiration or
20 termination of the state of disaster emergency proclamation issued by the
21 governor in response to the COVID-19 public health emergency, or any
22 extension thereof.

23 New Sec. 22. (a) Notwithstanding any statute to the contrary, the state
24 board of healing arts may grant a temporary emergency license to practice
25 any profession licensed, certified, registered or regulated by the board to
26 an applicant with qualifications the board deems sufficient to protect
27 public safety and welfare within the scope of professional practice
28 authorized by the temporary emergency license for the purpose of
29 preparing for, responding to or mitigating any effect of COVID-19.

30 (b) This section shall expire on January 26, 2021.

31 New Sec. 23. (a) Notwithstanding the provisions of K.S.A. 65-28a08
32 and 65-28a09, and amendments thereto, or any other statute to the
33 contrary, a licensed physician assistant may provide healthcare services
34 appropriate to such physician assistant's education, training and experience
35 within a designated healthcare facility at which the physician assistant is
36 employed or contracted to work as necessary to support the facility's
37 response to the COVID-19 pandemic without a written agreement with a
38 supervising physician. Such physician assistant shall not be liable in any
39 criminal prosecution, civil action or administrative proceeding arising out
40 of such physician assistant's lack of written agreement with a supervising
41 physician.

42 (b) Notwithstanding the provisions of K.S.A. 65-1130, and
43 amendments thereto, or any other statute to the contrary, a licensed

1 advanced practice registered nurse may provide healthcare services
2 appropriate to such advanced practice registered nurse's education, training
3 and experience within a designated healthcare facility at which the
4 advanced practice registered nurse is employed or contracted to work as
5 necessary to support the facility's response to the COVID-19 pandemic
6 without direction and supervision from a responsible physician. Such
7 advanced practice registered nurse shall not be liable in any criminal
8 prosecution, civil action or administrative proceeding arising out of such
9 advanced practice registered nurse's lack of direction and supervision from
10 a responsible physician.

11 (c) Notwithstanding the provisions of K.S.A. 65-1158, and
12 amendments thereto, or any other statute to the contrary, a registered nurse
13 anesthetist may provide healthcare services appropriate to such registered
14 nurse anesthetist's education, training and experience within a designated
15 healthcare facility at which the registered nurse anesthetist is employed or
16 contracted to work as necessary to support the facility's response to the
17 COVID-19 pandemic without direction and supervision from a physician.
18 Such registered nurse anesthetist shall not be liable in any criminal
19 prosecution, civil action or administrative proceeding arising out of such
20 registered nurse anesthetist's lack of direction and supervision from a
21 physician.

22 (d) Notwithstanding the provisions of K.S.A. 65-1113, and
23 amendments thereto, or any other statute to the contrary:

24 (1) A registered professional nurse or licensed practical nurse may
25 order the collection of throat or nasopharyngeal swab specimens from
26 individuals suspected of being infected by COVID-19 for purposes of
27 testing; and

28 (2) a licensed practical nurse may provide healthcare services
29 appropriate to such licensed practical nurse's education, training and
30 experience within a designated healthcare facility at which the licensed
31 practical nurse is employed or contracted to work as necessary to support
32 the facility's response to the COVID-19 pandemic without direction from a
33 registered professional nurse. Such licensed practical nurse shall not be
34 liable in any criminal prosecution, civil action or administrative
35 proceeding arising out of such licensed practical nurse's lack of
36 supervision from a registered professional nurse.

37 (e) Notwithstanding the provisions of K.S.A. 65-1626a, and
38 amendments thereto, or any other statute to the contrary, a licensed
39 pharmacist may provide care for routine health maintenance, chronic
40 disease states or similar conditions appropriate to such pharmacist's
41 education, training and experience within a designated healthcare facility
42 at which the pharmacist is employed or contracted to work as necessary to
43 support the facility's response to the COVID-19 pandemic without a

1 collaborative practice agreement with a physician. Such pharmacist shall
2 not be liable in any criminal prosecution, civil action or administrative
3 proceeding arising out of such pharmacist's lack of collaborative practice
4 agreement with a physician.

5 (f) Notwithstanding the provisions of K.S.A. 65-1115, 65-1116 and
6 65-1117, and amendments thereto, or any other statute to the contrary, a
7 registered professional nurse or licensed practical nurse who holds a
8 license that is exempt or inactive or whose license has lapsed within the
9 past five years from the effective date of this act may provide healthcare
10 services appropriate to the nurse's education, training and experience. Such
11 registered professional nurse or licensed practical nurse shall not be liable
12 in any criminal prosecution, civil action or administrative proceeding
13 arising out of such nurse's exempt, inactive or lapsed license.

14 (g) Notwithstanding any other provision of law to the contrary, a
15 designated healthcare facility may, as necessary to support the facility's
16 response to the COVID-19 pandemic:

17 (1) Allow a student who is enrolled in a program to become a
18 licensed, registered or certified healthcare professional to volunteer for
19 work within such facility in roles that are appropriate to such student's
20 education, training and experience;

21 (2) allow a licensed, registered or certified healthcare professional or
22 emergency medical personnel who is serving in the military in any duty
23 status to volunteer or work within such facility in roles that are appropriate
24 to such military service member's education, training and experience; and

25 (3) allow a medical student, physical therapist or emergency medical
26 services provider to volunteer or work within such facility as a respiratory
27 therapist extender under the supervision of a physician, respiratory
28 therapist or advanced practice registered nurse. Such respiratory therapist
29 extender may assist respiratory therapists and other healthcare
30 professionals in the operation of ventilators and related devices and may
31 provide other healthcare services appropriate to such respiratory therapist
32 extender's education, training and experience, as determined by the facility
33 in consultation with such facility's medical leadership.

34 (h) Notwithstanding any statute to the contrary, a healthcare
35 professional licensed and in good standing in another state may practice
36 such profession in the state of Kansas. For purposes of this subsection, a
37 license that has been suspended or revoked or a licensee that is subject to
38 pending license-related disciplinary action shall not be considered to be in
39 good standing. Any license that is subject to limitation in another state
40 shall be subject to the same limitation in the state of Kansas. Such
41 healthcare professional shall not be liable in any criminal prosecution, civil
42 action or administrative proceeding arising out of such healthcare
43 professional's lack of licensure in the state of Kansas.

1 (i) Notwithstanding any statute to the contrary, a designated
2 healthcare facility may use a qualified volunteer or qualified personnel
3 affiliated with any other designated healthcare facility as if such volunteer
4 or personnel was affiliated with the facility using such volunteer or
5 personnel, subject to any terms and conditions established by the secretary
6 of health and environment.

7 (j) Notwithstanding any statute to the contrary, a healthcare
8 professional may be licensed, certified or registered or may have such
9 license, certification or registration reinstated within five years of lapse or
10 renewed by the applicable licensing agency of the state of Kansas without
11 satisfying the following conditions of licensure, certification or
12 registration:

13 (1) An examination, if such examination's administration has been
14 canceled while the state of disaster emergency proclamation issued by the
15 governor in response to the COVID-19 pandemic is in effect;

16 (2) fingerprinting;

17 (3) continuing education; and

18 (4) payment of a fee.

19 (k) Notwithstanding any statute to the contrary, a professional
20 certification in basic life support, advanced cardiac life support or first aid
21 shall remain valid if such professional certification is due to expire or be
22 canceled while the state of disaster emergency proclamation issued by the
23 governor in response to the COVID-19 pandemic is in effect.

24 (l) Notwithstanding any statute to the contrary, fingerprinting of any
25 individual shall not be required as a condition of licensure and certification
26 for any hospital, as defined in K.S.A. 65-425, and amendments thereto,
27 adult care home, county medical care facility or psychiatric hospital.

28 (m) As used in this section:

29 (1) "Appropriate to such professional's education, training and
30 experience," or words of like effect, shall be determined by the designated
31 healthcare facility in consultation with such facility's medical leadership;
32 and

33 (2) "designated healthcare facility" means:

34 (A) Entities listed in K.S.A. 40-3401(f), and amendments thereto;

35 (B) state-owned surgical centers;

36 (C) state-operated hospitals and veterans facilities;

37 (D) entities used as surge capacity by any entity described in
38 subparagraphs (A) through (C);

39 (E) adult care homes; and

40 (F) any other location specifically designated by the governor or the
41 secretary of health and environment to exclusively treat patients for
42 COVID-19.

43 (n) The provisions of this section shall expire on January 26, 2021.

1 Sec. 24. Section 1 of 2020 House Substitute for Senate Bill No. 102
2 is hereby amended to read as follows: Sec. 1. (a) Notwithstanding any
3 other provisions of law, during any state of disaster emergency pursuant to
4 K.S.A. 48-924, and amendments thereto, the chief justice of the Kansas
5 supreme court may issue an order to extend or suspend any deadlines or
6 time limitations established by statute when the chief justice determines
7 such action is necessary to secure the health and safety of court users, staff
8 and judicial officers.

9 (b) Notwithstanding any other provisions of law, ~~during any state of~~
10 ~~disaster emergency pursuant to K.S.A. 48-924, and amendments thereto,~~
11 the chief justice of the Kansas supreme court may issue an order to
12 authorize the use of two-way electronic audio-visual communication in
13 any court proceeding when the chief justice determines such action is
14 necessary to secure the health and safety of court users, staff and judicial
15 officers.

16 (c) Any order issued pursuant to ~~this section~~ subsection (a) may
17 remain in effect for up to 150 days after a state of disaster emergency is
18 terminated pursuant to K.S.A. 48-924, and amendments thereto. Any order
19 in violation of this section shall be void.

20 (d) The provisions of this section shall expire on March 31, 2021.

21 Sec. 25. K.S.A. 2019 Supp. 19-101a is hereby amended to read as
22 follows: 19-101a. (a) The board of county commissioners may transact all
23 county business and perform all powers of local legislation and
24 administration it deems appropriate, subject only to the following
25 limitations, restrictions or prohibitions:

26 (1) Counties shall be subject to all acts of the legislature which apply
27 uniformly to all counties.

28 (2) Counties may not affect the courts located therein.

29 (3) Counties shall be subject to acts of the legislature prescribing
30 limits of indebtedness.

31 (4) In the exercise of powers of local legislation and administration
32 authorized under provisions of this section, the home rule power conferred
33 on cities to determine their local affairs and government shall not be
34 superseded or impaired without the consent of the governing body of each
35 city within a county which may be affected.

36 (5) Counties may not legislate on social welfare administered under
37 state law enacted pursuant to or in conformity with public law No. 271 –
38 74th congress, or amendments thereof.

39 (6) Counties shall be subject to all acts of the legislature concerning
40 elections, election commissioners and officers and their duties as such
41 officers and the election of county officers.

42 (7) Counties shall be subject to the limitations and prohibitions
43 imposed under K.S.A. 12-187 through 12-195, and amendments thereto,

1 prescribing limitations upon the levy of retailers' sales taxes by counties.

2 (8) Counties may not exempt from or effect changes in statutes made
3 nonuniform in application solely by reason of authorizing exceptions for
4 counties having adopted a charter for county government.

5 (9) No county may levy ad valorem taxes under the authority of this
6 section upon real property located within any redevelopment project area
7 established under the authority of K.S.A. 12-1772, and amendments
8 thereto, unless the resolution authorizing the same specifically authorized
9 a portion of the proceeds of such levy to be used to pay the principal of
10 and interest upon bonds issued by a city under the authority of K.S.A. 12-
11 1774, and amendments thereto.

12 (10) Counties shall have no power under this section to exempt from
13 any statute authorizing or requiring the levy of taxes and providing
14 substitute and additional provisions on the same subject, unless the
15 resolution authorizing the same specifically provides for a portion of the
16 proceeds of such levy to be used to pay a portion of the principal and
17 interest on bonds issued by cities under the authority of K.S.A. 12-1774,
18 and amendments thereto.

19 (11) Counties may not exempt from or effect changes in the
20 provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

21 (12) Except as otherwise specifically authorized by K.S.A. 12-1,101
22 through 12-1,109, and amendments thereto, counties may not levy and
23 collect taxes on incomes from whatever source derived.

24 (13) Counties may not exempt from or effect changes in K.S.A. 19-
25 430, and amendments thereto.

26 (14) Counties may not exempt from or effect changes in K.S.A. 19-
27 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

28 (15) Counties may not exempt from or effect changes in K.S.A. 19-
29 15,139, 19-15,140 and 19-15,141, and amendments thereto.

30 (16) Counties may not exempt from or effect changes in the
31 provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c
32 and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-
33 1260 through 12-1270 and 12-1276, and amendments thereto.

34 (17) Counties may not exempt from or effect changes in the
35 provisions of K.S.A. 19-211, and amendments thereto.

36 (18) Counties may not exempt from or effect changes in the
37 provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

38 (19) Counties may not regulate the production or drilling of any oil or
39 gas well in any manner which would result in the duplication of regulation
40 by the state corporation commission and the Kansas department of health
41 and environment pursuant to chapter 55 and chapter 65 of the Kansas
42 Statutes Annotated, and amendments thereto, and any rules and regulations
43 adopted pursuant thereto. Counties may not require any license or permit

- 1 for the drilling or production of oil and gas wells. Counties may not
2 impose any fee or charge for the drilling or production of any oil or gas
3 well.
- 4 (20) Counties may not exempt from or effect changes in K.S.A. 79-
5 41a04, and amendments thereto.
- 6 (21) Counties may not exempt from or effect changes in K.S.A. 79-
7 1611, and amendments thereto.
- 8 (22) Counties may not exempt from or effect changes in K.S.A. 79-
9 1494, and amendments thereto.
- 10 (23) Counties may not exempt from or effect changes in K.S.A. 19-
11 202(b), and amendments thereto.
- 12 (24) Counties may not exempt from or effect changes in K.S.A. 19-
13 204(b), and amendments thereto.
- 14 (25) Counties may not levy or impose an excise, severance or any
15 other tax in the nature of an excise tax upon the physical severance and
16 production of any mineral or other material from the earth or water.
- 17 (26) Counties may not exempt from or effect changes in K.S.A. 79-
18 2017 or 79-2101, and amendments thereto.
- 19 (27) Counties may not exempt from or effect changes in K.S.A. 2-
20 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-
21 1,178 through 65-1,199, 65-3001 through 65-3028, and amendments
22 thereto.
- 23 (28) Counties may not exempt from or effect changes in K.S.A. 80-
24 121, and amendments thereto.
- 25 (29) Counties may not exempt from or effect changes in K.S.A. 19-
26 228, and amendments thereto.
- 27 (30) Counties may not exempt from or effect changes in the Kansas
28 911 act.
- 29 (31) Counties may not exempt from or effect changes in K.S.A. 2019
30 Supp. 26-601, and amendments thereto.
- 31 (32) (A) Counties may not exempt from or effect changes in the
32 Kansas liquor control act except as provided by paragraph (B).
- 33 (B) Counties may adopt resolutions which are not in conflict with the
34 Kansas liquor control act.
- 35 (33) (A) Counties may not exempt from or effect changes in the
36 Kansas cereal malt beverage act except as provided by paragraph (B).
- 37 (B) Counties may adopt resolutions which are not in conflict with the
38 Kansas cereal malt beverage act.
- 39 (34) Counties may not exempt from or effect changes in the Kansas
40 lottery act.
- 41 (35) Counties may not exempt from or effect changes in the Kansas
42 expanded lottery act.
- 43 (36) Counties may neither exempt from nor effect changes to the

1 eminent domain procedure act.

2 (37) Any county granted authority pursuant to the provisions of
3 K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be
4 subject to the limitations and prohibitions imposed under K.S.A. 19-5001
5 through 19-5005, and amendments thereto.

6 (38) Except as otherwise specifically authorized by K.S.A. 19-5001
7 through 19-5005, and amendments thereto, counties may not exercise any
8 authority granted pursuant to K.S.A. 19-5001 through 19-5005, and
9 amendments thereto, including the imposition or levy of any retailers' sales
10 tax.

11 (39) *Counties may not exempt from or effect changes in K.S.A. 65-*
12 *201 and 65-202, and amendments thereto.*

13 (b) Counties shall apply the powers of local legislation granted in
14 subsection (a) by resolution of the board of county commissioners. If no
15 statutory authority exists for such local legislation other than that set forth
16 in subsection (a) and the local legislation proposed under the authority of
17 such subsection is not contrary to any act of the legislature, such local
18 legislation shall become effective upon passage of a resolution of the
19 board and publication in the official county newspaper. If the legislation
20 proposed by the board under authority of subsection (a) is contrary to an
21 act of the legislature which is applicable to the particular county but not
22 uniformly applicable to all counties, such legislation shall become
23 effective by passage of a charter resolution in the manner provided in
24 K.S.A. 19-101b, and amendments thereto.

25 (c) Any resolution adopted by a county which conflicts with the
26 restrictions in subsection (a) is null and void.

27 Sec. 26. K.S.A. 2019 Supp. 41-2653 is hereby amended to read as
28 follows: 41-2653. (a) In addition to the rights of a licensee pursuant to
29 provisions of K.S.A. 41-2637, 41-2641 or 41-2642, and amendments
30 thereto, a class A club license, class B club license or drinking
31 establishment license shall allow the licensee to allow legal patrons of the
32 club or drinking establishment to remove from the licensed premises one
33 or more opened containers of alcoholic liquor, subject to the following
34 conditions:

35 (1) It must be legal for the licensee to sell the alcoholic liquor in its
36 original container;

37 (2) the alcoholic liquor must be in its original container;

38 (3) each container of alcoholic liquor must have been purchased by a
39 patron and the alcoholic liquor in each container must have been partially
40 consumed on the licensed premises;

41 (4) the licensee or the licensee's employee must provide the patron
42 with a dated receipt for the unfinished container or containers of alcoholic
43 liquor; and

1 (5) before the container of alcoholic liquor is removed from the
2 licensed premises, the licensee or the licensee's employee must securely
3 reseal each container, place the container in a tamper-proof, transparent
4 bag which is sealed in a manner that makes it visibly apparent if the bag is
5 subsequently tampered with or opened.

6 (b) (1) *In addition to the rights of a licensee pursuant to provisions of*
7 *K.S.A. 41-2637, 41-2641 or 41-2642, and amendments thereto, and the*
8 *provisions of subsection (a), a class A club license, class B club license or*
9 *drinking establishment license shall allow the licensee to allow legal*
10 *patrons of the club or drinking establishment to remove from the licensed*
11 *premises one or more containers of alcoholic liquor that is not in the*
12 *original container, subject to the following conditions:*

13 (A) *It must be legal for the licensee to sell the alcoholic liquor;*

14 (B) *each container of alcoholic liquor must have been purchased by a*
15 *patron on the licensed premises;*

16 (C) *the licensee or the licensee's employee must provide the patron*
17 *with a dated receipt for the alcoholic liquor; and*

18 (D) *before the container of alcoholic liquor is removed from the*
19 *licensed premises, the licensee or the licensee's employee must place the*
20 *container in a transparent bag that is sealed in a manner that makes it*
21 *visibly apparent if the bag is subsequently tampered with or opened.*

22 (2) *The provisions of this subsection shall expire on January 26,*
23 *2021.*

24 (c) This section shall be part of and supplemental to the club and
25 drinking establishment act.

26 Sec. 27. K.S.A. 2019 Supp. 44-702 is hereby amended to read as
27 follows: 44-702. As a guide to the interpretation and application of this act,
28 the public policy of this state is declared to be as follows: Economic
29 insecurity, due to unemployment, is a serious menace to health, morals,
30 and welfare of the people of this state. Involuntary unemployment is
31 therefore a subject of general interest and concern—~~which~~ that requires
32 appropriate action by the legislature to prevent its spread and to lighten its
33 burden—~~which~~ that now so often falls with crushing force upon the
34 unemployed worker and such worker's family. The achievement of social
35 security requires protection against this greatest hazard of our economic
36 life. This can be provided by encouraging employers to provide more
37 stable employment and by the systematic accumulation of funds during
38 periods of employment to provide benefits for periods of unemployment,
39 thus maintaining purchasing power and limiting the serious social
40 consequences of poor-relief assistance. The legislature, therefore, declares
41 that in its considered judgment the public good and the general welfare of
42 the citizens of this state require the enactment of this measure, under the
43 police powers of the state, for the compulsory setting aside of

1 unemployment reserves to be used for the benefit of persons unemployed.
2 *The state of Kansas is committed to maintaining and strengthening access*
3 *to the unemployment compensation system, including through initial and*
4 *continuing claims.* All persons and employers are entitled to a neutral
5 interpretation of the employment security law.

6 Sec. 28. K.S.A. 2019 Supp. 44-705, as amended by section 2 of 2020
7 Senate Bill No. 27, is hereby amended to read as follows: 44-705. Except
8 as provided by K.S.A. 44-757, and amendments thereto, an unemployed
9 individual shall be eligible to receive benefits with respect to any week
10 only if the secretary, or a person or persons designated by the secretary,
11 finds that:

12 (a) The claimant has registered for work at and thereafter continued
13 to report at an employment office in accordance with rules and regulations
14 adopted by the secretary, except that, subject to the provisions of K.S.A.
15 44-704(a), and amendments thereto, the secretary may adopt rules and
16 regulations that waive or alter either or both of the requirements of this
17 subsection.

18 (b) The claimant has made a claim for benefits with respect to such
19 week in accordance with rules and regulations adopted by the secretary.

20 (c) The claimant is able to perform the duties of such claimant's
21 customary occupation or the duties of other occupations that the claimant
22 is reasonably fitted by training or experience, and is available for work, as
23 demonstrated by the claimant's pursuit of the full course of action most
24 reasonably calculated to result in the claimant's reemployment except that,
25 notwithstanding any other provisions of this section, an unemployed
26 claimant otherwise eligible for benefits shall not become ineligible for
27 benefits: (1) Because of the claimant's enrollment in and satisfactory
28 pursuit of approved training, including training approved under section
29 236(a)(1) of the trade act of 1974; ~~or~~ (2) solely because such individual is
30 seeking only part-time employment if the individual is available for a
31 number of hours per week that are comparable to the individual's part-time
32 work experience in the base period; *or* (3) *because a claimant is not*
33 *actively seeking work: (i) During a state of disaster emergency proclaimed*
34 *by the governor pursuant to K.S.A. 48-924 and 48-925, and amendments*
35 *thereto; (ii) in response to the spread of the public health emergency of*
36 *COVID-19; and (iii) the state's temporary waiver of the work search*
37 *requirement under the employment security law for such claimant is in*
38 *compliance with the families first coronavirus response act, public law*
39 *116-127.*

40 For the purposes of this subsection, an inmate of a custodial or
41 correctional institution shall be deemed to be unavailable for work and not
42 eligible to receive unemployment compensation while incarcerated.

43 (d) (1) Except as provided further, the claimant has been unemployed

1 for a waiting period of one week or the claimant is unemployed and has
2 satisfied the requirement for a waiting period of one week under the shared
3 work unemployment compensation program as provided in K.S.A. 44-
4 757(k)(4), and amendments thereto, and that period of one week, in either
5 case, occurs within the benefit year that includes the week for which the
6 claimant is claiming benefits. No week shall be counted as a week of
7 unemployment for the purposes of this subsection:

8 (A) If benefits have been paid for such week;

9 (B) if the individual fails to meet with the other eligibility
10 requirements of this section; or

11 (C) if an individual is seeking unemployment benefits under the
12 unemployment compensation law of any other state or of the United
13 States, except that if the appropriate agency of such state or of the United
14 States finally determines that the claimant is not entitled to unemployment
15 benefits under such other law, this subparagraph shall not apply.

16 (2) (A) The waiting week requirement of paragraph (1) shall not
17 apply to:

18 (i) New claims by claimants who become unemployed as a result of
19 an employer terminating business operations within this state, declaring
20 bankruptcy or initiating a work force reduction pursuant to public law 100-
21 379, the federal worker adjustment and retraining notification act, 29
22 U.S.C. §§ 2101 through 2109, as amended; or

23 (ii) *new claims filed on or after April 5, 2020, through December 26,*
24 *2020, in accordance with the families first coronavirus response act,*
25 *public law 116-127 and the federal CARES act, public law 116-136.*

26 (B) The secretary shall adopt rules and regulations to administer the
27 provisions of this paragraph.

28 (3) *If the waiting week requirement of paragraph (1) applies,* a
29 claimant shall become eligible to receive compensation for the waiting
30 period of one week, pursuant to paragraph (1), upon completion of three
31 weeks of unemployment consecutive to such waiting period. This
32 paragraph shall not apply to initial claims effective on and after April 1,
33 2021.

34 (e) For benefit years established on and after the effective date of this
35 act, the claimant has been paid total wages for insured work in the
36 claimant's base period of not less than 30 times the claimant's weekly
37 benefit amount and has been paid wages in more than one quarter of the
38 claimant's base period, except that the wage credits of an individual earned
39 during the period commencing with the end of a prior base period and
40 ending on the date that such individual filed a valid initial claim shall not
41 be available for benefit purposes in a subsequent benefit year unless, in
42 addition thereto, such individual has returned to work and subsequently
43 earned wages for insured work in an amount equal to at least eight times

1 the claimant's current weekly benefit amount.

2 (f) The claimant participates in reemployment services, such as job
3 search assistance services, if the individual has been determined to be
4 likely to exhaust regular benefits and needs reemployment services
5 pursuant to a profiling system established by the secretary, unless the
6 secretary determines that: (1) The individual has completed such services;
7 or (2) there is justifiable cause for the claimant's failure to participate in
8 such services.

9 (g) The claimant is returning to work after a qualifying injury and has
10 been paid total wages for insured work in the claimant's alternative base
11 period of not less than 30 times the claimant's weekly benefit amount and
12 has been paid wages in more than one quarter of the claimant's alternative
13 base period if:

14 (1) The claimant has filed for benefits within four weeks of being
15 released to return to work by a licensed and practicing health care
16 provider;

17 (2) the claimant files for benefits within 24 months of the date the
18 qualifying injury occurred; and

19 (3) the claimant attempted to return to work with the employer where
20 the qualifying injury occurred, but the individual's regular work or
21 comparable and suitable work was not available.

22 Sec. 29. K.S.A. 2019 Supp. 44-709 is hereby amended to read as
23 follows: 44-709. (a) *Filing*. Claims for benefits shall be made in
24 accordance with rules and regulations adopted by the secretary. The
25 secretary shall furnish a copy of such rules and regulations to any
26 individual requesting them. Each employer shall: (1) Post and maintain
27 printed statements furnished by the secretary without cost to the employer
28 in places readily accessible to individuals in the service of the employer;
29 *and (2) provide any other notification to individuals in the service of the*
30 *employer as required by the secretary pursuant to the families first*
31 *coronavirus response act, public law 116-127.*

32 (b) *Determination*. (1) Except as otherwise provided in this
33 paragraph, a representative designated by the secretary, and hereinafter
34 referred to as an examiner, shall promptly examine the claim and, on the
35 basis of the facts found by the examiner, shall determine whether or not
36 the claim is valid. If the examiner determines that the claim is valid, the
37 examiner shall determine the first day of the benefit year, the weekly
38 benefit amount and the total amount of benefits payable with respect to the
39 benefit year. If the claim is determined to be valid, the examiner shall send
40 a notice to the last employing unit who shall respond within 10 days by
41 providing the examiner all requested information including all information
42 required for a decision under K.S.A. 44-706, and amendments thereto. The
43 information may be submitted by the employing unit in person at an

1 employment office of the secretary or by mail, by telefacsimile machine or
2 by electronic mail. If the required information is not submitted or
3 postmarked within a response time limit of 10 days after the examiner's
4 notice was sent, the employing unit shall be deemed to have waived its
5 standing as a party to the proceedings arising from the claim and shall be
6 barred from protesting any subsequent decisions about the claim by the
7 secretary, a referee, the employment security board of review or any court,
8 except that the employing unit's response time limit may be waived or
9 extended by the examiner or upon appeal, if timely response was
10 impossible due to excusable neglect. In any case in which the payment or
11 denial of benefits will be determined by the provisions of K.S.A. 44-
12 706(d), and amendments thereto, the examiner shall promptly transmit the
13 claim to a special examiner designated by the secretary to make a
14 determination on the claim after the investigation as the special examiner
15 deems necessary. The parties shall be promptly notified of the special
16 examiner's decision and any party aggrieved by the decision may appeal to
17 the referee as provided in subsection (c). The claimant and the claimant's
18 most recent employing unit shall be promptly notified of the examiner's or
19 special examiner's decision.

20 (2) The examiner may for good cause reconsider the examiner's
21 decision and shall promptly notify the claimant and the most recent
22 employing unit of the claimant, that the decision of the examiner is to be
23 reconsidered, except that no reconsideration shall be made after the
24 termination of the benefit year.

25 (3) Notwithstanding the provisions of any other statute, a decision of
26 an examiner or special examiner shall be final unless the claimant or the
27 most recent employing unit of the claimant files an appeal from the
28 decision as provided in subsection (c), except that the time limit for appeal
29 may be waived or extended by the referee or board of review if a timely
30 response was impossible due to excusable neglect. The appeal must be
31 filed within 16 calendar days after the mailing of notice to the last known
32 addresses of the claimant and employing unit or, if notice is not by mail,
33 within 16 calendar days after the delivery of the notice to the parties.

34 (c) *Appeals.* Unless the appeal is withdrawn, a referee, after affording
35 the parties reasonable opportunity for fair hearing, shall affirm or modify
36 the findings of fact and decision of the examiner or special examiner. The
37 parties shall be duly notified of the referee's decision, together with the
38 reasons for the decision. The decision shall be final, notwithstanding the
39 provisions of any other statute, unless a further appeal to the employment
40 security board of review is filed within 16 calendar days after the mailing
41 of the decision to the parties' last known addresses or, if notice is not by
42 mail, within 16 calendar days after the delivery of the decision, except that
43 the time limit for appeal may be waived or extended by the referee or

1 board of review if a timely response was impossible due to excusable
2 neglect.

3 (d) *Referees*. The secretary shall appoint, in accordance with K.S.A.
4 44-714(c), and amendments thereto, one or more referees to hear and
5 decide disputed claims.

6 (e) *Time, computation and extension*. In computing the period of time
7 for an employing unit response or for appeals under this section from the
8 examiner's or the special examiner's determination or from the referee's
9 decision, the day of the act, event or default from which the designated
10 period of time begins to run shall not be included. The last day of the
11 period shall be included unless it is a Saturday, Sunday or legal holiday, in
12 which event the period runs until the end of the next day ~~which~~ *that* is not
13 a Saturday, Sunday or legal holiday.

14 (f) *Board of review*. (1) There is hereby created an employment
15 security board of review, hereinafter referred to as the board, consisting of
16 three members. Each member of the board shall be appointed for a term of
17 four years as provided in this subsection. Not more than two members of
18 the board shall belong to the same political party.

19 (2) When a vacancy on the employment security board of review
20 occurs, the workers compensation and employment security boards
21 nominating committee established under K.S.A. 44-551, and amendments
22 thereto, shall convene and submit a nominee to the governor for
23 appointment to each vacancy on the employment security board of review,
24 subject to confirmation by the senate as provided by K.S.A. 75-4315b, and
25 amendments thereto. The governor shall either: (A) Accept and submit to
26 the senate for confirmation the person nominated by the nominating
27 committee; or (B) reject the nomination and request the nominating
28 committee to nominate another person for that position. Except as
29 provided by K.S.A. 46-2601, and amendments thereto, no person
30 appointed to the employment security board of review, whose appointment
31 is subject to confirmation by the senate, shall exercise any power, duty or
32 function as a member until confirmed by the senate.

33 (3) No member of the employment security board of review shall
34 serve more than two consecutive terms.

35 (4) Each member of the employment security board shall serve until a
36 successor has been appointed and confirmed. Any vacancy in the
37 membership of the board occurring prior to expiration of a term shall be
38 filled by appointment for the unexpired term in the same manner as
39 provided for original appointment of the member.

40 (5) Each member of the employment security board of review shall
41 be entitled to receive as compensation for the member's services at the rate
42 of \$15,000 per year, together with the member's travel and other necessary
43 expenses actually incurred in the performance of the member's official

1 duties in accordance with rules and regulations adopted by the secretary.
2 Members' compensation and expenses shall be paid from the employment
3 security administration fund.

4 (6) The employment security board of review shall organize annually
5 by the election of a chairperson from among its members. The chairperson
6 shall serve in that capacity for a term of one year and until a successor is
7 elected. The board shall meet on the first Monday of each month or on the
8 call of the chairperson or any two members of the board at the place
9 designated. The secretary of labor shall appoint an executive secretary of
10 the board and the executive secretary shall attend the meetings of the
11 board.

12 (7) The employment security board of review, on its own motion,
13 may affirm, modify or set aside any decision of a referee on the basis of
14 the evidence previously submitted in the case; may direct the taking of
15 additional evidence; or may permit any of the parties to initiate further
16 appeal before it. The board shall permit such further appeal by any of the
17 parties interested in a decision of a referee ~~which~~ that overrules or
18 modifies the decision of an examiner. The board may remove to itself the
19 proceedings on any claim pending before a referee. Any proceedings so
20 removed to the board shall be heard in accordance with the requirements
21 of subsection (c). The board shall promptly notify the interested parties of
22 its findings and decision.

23 (8) Two members of the employment security board of review shall
24 constitute a quorum and no action of the board shall be valid unless it has
25 the concurrence of at least two members. A vacancy on the board shall not
26 impair the right of a quorum to exercise all the rights and perform all the
27 duties of the board.

28 (g) *Procedure.* The manner ~~in which~~ that disputed claims are
29 presented, the reports on claims required from the claimant and from
30 employers and the conduct of hearings and appeals shall be in accordance
31 with rules of procedure prescribed by the employment security board of
32 review for determining the rights of the parties, whether or not such rules
33 conform to common law or statutory rules of evidence and other technical
34 rules of procedure. A full and complete record shall be kept of all
35 proceedings and decisions in connection with a disputed claim. All
36 testimony at any hearing upon a disputed claim shall be recorded, but need
37 not be transcribed unless the disputed claim is further appealed. In the
38 performance of its official duties, the board shall have access to all of the
39 records ~~which~~ that pertain to the disputed claim and are in the custody of
40 the secretary of labor and shall receive the assistance of the secretary upon
41 request.

42 (h) *Witness fees.* Witnesses subpoenaed pursuant to this section shall
43 be allowed fees and necessary travel expenses at rates fixed by the board.

1 Such fees and expenses shall be deemed a part of the expense of
2 administering this act.

3 (i) *Review of board action.* Any action of the employment security
4 board of review may not be reconsidered after the mailing of the decision.
5 An action of the board shall become final unless a petition for review in
6 accordance with the Kansas judicial review act is filed within 16 calendar
7 days after the date of the mailing of the decision. If an appeal has not been
8 filed within 16 calendar days of the date of the mailing of the decision, the
9 decision becomes final. No bond shall be required for commencing an
10 action for such review. In addition to those persons having standing
11 pursuant to K.S.A. 77-611, and amendments thereto, the examiner shall
12 have standing to obtain judicial review of an action of such board. The
13 review proceeding, and the questions of law certified, shall be heard in a
14 summary manner and shall be given precedence over all other civil cases
15 except cases arising under the workers compensation act.

16 (j) Any finding of fact or law, judgment, determination, conclusion or
17 final order made by the employment security board of review or any
18 examiner, special examiner, referee or other person with authority to make
19 findings of fact or law pursuant to the employment security law is not
20 admissible or binding in any separate or subsequent action or proceeding,
21 between a person and a present or previous employer brought before an
22 arbitrator, court or judge of the state or the United States, regardless of
23 whether the prior action was between the same or related parties or
24 involved the same facts.

25 (k) In any proceeding or hearing conducted under this section, a party
26 to the proceeding or hearing may appear before a referee or the
27 employment security board of review either personally or by means of a
28 designated representative to present evidence and to state the position of
29 the party. Hearings may be conducted in person, by telephone or other
30 means of electronic communication. The hearing shall be conducted by
31 telephone or other means of electronic communication if none of the
32 parties requests an in-person hearing. If only one party requests an in-
33 person hearing, the referee shall have the discretion of requiring all parties
34 to appear in person or allow the party not requesting an in-person hearing
35 to appear by telephone or other means of electronic communication. The
36 notice of hearing shall include notice to the parties of their right to request
37 an in-person hearing and instructions on how to make the request.

38 Sec. 30. K.S.A. 2019 Supp. 44-710 is hereby amended to read as
39 follows: 44-710. (a) *Payment.* Contributions shall accrue and become
40 payable by each contributing employer for each calendar year ~~in which~~
41 *that* the contributing employer is subject to the employment security law
42 with respect to wages paid for employment. Such contributions shall
43 become due and be paid by each contributing employer to the secretary for

1 the employment security fund in accordance with such rules and
2 regulations as the secretary may adopt and shall not be deducted, in whole
3 or in part, from the wages of individuals in such employer's employ. In the
4 payment of any contributions, a fractional part of \$.01 shall be disregarded
5 unless it amounts to \$.005 or more, in which case it shall be increased to
6 \$.01. Should contributions for any calendar quarter be less than \$5, no
7 payment shall be required.

8 (b) *Rates and base of contributions.* (1) Except as provided in
9 paragraph (2) of this subsection, each contributing employer shall pay
10 contributions on wages paid by the contributing employer during each
11 calendar year with respect to employment as provided in K.S.A. 44-710a,
12 and amendments thereto. Except that, notwithstanding the federal law
13 requiring the secretary of labor to annually recalculate the contribution
14 rate, for calendar years 2010, 2011, 2012, 2013 and 2014, the secretary
15 shall charge each contributing employer in rate groups 1 through 32 the
16 contribution rate in the 2010 original tax rate computation table, with
17 contributing employers in rate groups 33 through 51 being capped at a
18 5.4% contribution rate. *For calendar year 2021, unemployment tax rates*
19 *for eligible employers shall be limited to the standard rate schedule in*
20 *K.S.A. 44-710a, and amendments thereto. Therefore, no additional*
21 *solvency adjustment shall be applied.*

22 (2) (A) If the congress of the United States either amends or repeals
23 the Wagner-Peyser act, the federal unemployment tax act, the federal
24 social security act, or subtitle C of chapter 23 of the federal internal
25 revenue code of 1986, or any act or acts supplemental to or in lieu thereof,
26 or any part or parts of any such law, or if any such law, or any part or parts
27 thereof, are held invalid with the effect that appropriations of funds by
28 congress and grants thereof to the state of Kansas for the payment of costs
29 of administration of the employment security law are no longer available
30 for such purposes; or (B) if employers in Kansas subject to the payment of
31 tax under the federal unemployment tax act are granted full credit against
32 such tax for contributions or taxes paid to the secretary of labor, then, and
33 in either such case, beginning with the year ~~in which~~ *that* the unavailability
34 of federal appropriations and grants for such purpose occurs or ~~in which~~
35 *that* such change in liability for payment of such federal tax occurs and for
36 each year thereafter, the rate of contributions of each contributing
37 employer shall be equal to the total of 0.5% and the rate of contributions as
38 determined for such contributing employer under K.S.A. 44-710a, and
39 amendments thereto. The amount of contributions ~~which~~ *that* each
40 contributing employer becomes liable to pay under this paragraph (2) over
41 the amount of contributions ~~which~~ *that* such contributing employer would
42 be otherwise liable to pay shall be credited to the employment security
43 administration fund to be disbursed and paid out under the same conditions

1 and for the same purposes as other moneys are authorized to be paid from
2 the employment security administration fund, except that, if the secretary
3 determines that as of the first day of January of any year there is an excess
4 in the employment security administration fund over the amount required
5 to be disbursed during such year, an amount equal to such excess as
6 determined by the secretary shall be transferred to the employment
7 security fund.

8 (c) *Charging of benefit payments.* (1) The secretary shall maintain a
9 separate account for each contributing employer, and shall credit the
10 contributing employer's account with all the contributions paid on the
11 contributing employer's own behalf. Nothing in the employment security
12 law shall be construed to grant any employer or individuals in such
13 employer's service prior claims or rights to the amounts paid by such
14 employer into the employment security fund either on such employer's
15 own behalf or on behalf of such individuals. Benefits paid shall be charged
16 against the accounts of each base period employer in the proportion that
17 the base period wages paid to an eligible individual by each such employer
18 bears to the total wages in the base period. Benefits shall be charged to
19 contributing employers' accounts and rated governmental employers'
20 accounts upon the basis of benefits paid during each twelve-month period
21 ending on the computation date.

22 (2) (A) Benefits paid in benefit years established by valid new claims
23 shall not be charged to the account of a contributing employer or rated
24 governmental employer who is a base period employer if the examiner
25 finds that claimant was separated from the claimant's most recent
26 employment with such employer under any of the following conditions: (i)
27 Discharged for misconduct or gross misconduct connected with the
28 individual's work; ~~or~~ (ii) leaving work voluntarily without good cause
29 attributable to the claimant's work or the employer; *or (iii) discharged*
30 *from an employer directly impacted by COVID-19 in accordance with the*
31 *families first coronavirus response act, public law 116-127.*

32 (B) Where base period wage credits of a contributing employer or
33 rated governmental employer represent part-time employment and the
34 claimant continues in that part-time employment with that employer
35 during the period for which benefits are paid, then that employer's account
36 shall not be charged with any part of the benefits paid if the employer
37 provides the secretary with information as required by rules and
38 regulations. For the purposes of this subsection (c)(2)(B), "part-time
39 employment" means any employment when an individual works less than
40 full-time because the individual's services are not required for the
41 customary, scheduled full-time hours prevailing at the work place or the
42 individual does not customarily work the regularly scheduled full-time
43 hours due to personal choice or circumstances.

1 (C) No contributing employer or rated governmental employer's
2 account shall be charged with any extended benefits paid in accordance
3 with the employment security law, except for weeks of unemployment
4 beginning after December 31, 1978, all contributing governmental
5 employers and governmental rated employers shall be charged an amount
6 equal to all extended benefits paid.

7 (D) No contributing employer, rated governmental employer or
8 reimbursing employer's account shall be charged for any additional
9 benefits paid during the period July 1, 2003 through June 30, 2004.

10 (E) No contributing employer or rated governmental employer's
11 account will be charged for benefits paid a claimant while pursuing an
12 approved training course as defined in ~~subsection (s)~~ of K.S.A. 44-703(s),
13 and amendments thereto.

14 (F) No contributing employer or rated governmental employer's
15 account shall be charged with respect to the benefits paid to any individual
16 whose base period wages include wages for services not covered by the
17 employment security law prior to January 1, 1978, to the extent that the
18 employment security fund is reimbursed for such benefits pursuant to
19 section 121 of public law 94-566 (90 Stat. 2673).

20 (G) With respect to weeks of unemployment beginning after
21 December 31, 1977, wages for insured work shall include wages paid for
22 previously uncovered services. For the purposes of this subsection (c)(2)
23 (G), the term "previously uncovered services" means services ~~which that~~
24 were not covered employment, at any time during the one-year period
25 ending December 31, 1975, except to the extent that assistance under title
26 II of the federal emergency jobs and unemployment assistance act of 1974
27 was paid on the basis of such services, and ~~which that~~:

28 (i) Are agricultural labor as defined in ~~subsection (w)~~ of K.S.A. 44-
29 703(w), and amendments thereto, or domestic service as defined in
30 ~~subsection (aa)~~ of K.S.A. 44-703(aa), and amendments thereto;

31 (ii) are services performed by an employee of this state or a political
32 subdivision thereof, as provided in ~~subsection (i)(3)(E)~~ of K.S.A. 44-
33 703(i)(3)(E), and amendments thereto; or

34 (iii) are services performed by an employee of a nonprofit educational
35 institution ~~which that~~ is not an institution of higher education.

36 (H) No contributing employer or rated governmental employer's
37 account shall be charged with respect to their pro rata share of benefit
38 charges if such charges are of \$100 or less.

39 (3) An employer's account shall not be relieved of charges relating to
40 a payment that was made erroneously if the secretary determines that:

41 (A) The erroneous payment was made because the employer, or the
42 agent of the employer, was at fault for failing to respond timely or
43 adequately to a written request from the secretary for information relating

1 to the claim for unemployment compensation; and

2 (B) the employer or agent has established a pattern of failing to
3 respond timely or adequately to requests for information.

4 (C) For purposes of this paragraph:

5 (i) "Erroneous payment" means a payment that but for the failure by
6 the employer or the employer's agent with respect to the claim for
7 unemployment compensation, would not have been made; and

8 (ii) "pattern of failure" means repeated documented failure on the part
9 of the employer or the agent of the employer to respond, taking into
10 consideration the number of instances of failure in relation to the total
11 volume of requests. An employer or employer's agent failing to respond as
12 described in (c)(3)(A) shall not be determined to have engaged in a
13 "pattern of failure" if the number of such failures during the year prior to
14 such request is fewer than two, or less than 2%, of such requests,
15 whichever is greater.

16 (D) Determinations of the secretary prohibiting the relief of charges
17 pursuant to this section shall be subject to appeal or protest as other
18 determinations of the agency with respect to the charging of employer
19 accounts.

20 (E) This paragraph shall apply to erroneous payments established on
21 and after the effective date of this act.

22 (4) The examiner shall notify any base period employer whose
23 account will be charged with benefits paid following the filing of a valid
24 new claim and a determination by the examiner based on all information
25 relating to the claim contained in the records of the division of
26 employment security. Such notice shall become final and benefits charged
27 to the base period employer's account in accordance with the claim unless
28 within 10 calendar days from the date the notice was sent, the base period
29 employer requests in writing that the examiner reconsider the
30 determination and furnishes any required information in accordance with
31 the secretary's rules and regulations. In a similar manner, a notice of an
32 additional claim followed by the first payment of benefits with respect to
33 the benefit year, filed by an individual during a benefit year after a period
34 in such year during which such individual was employed, shall be given to
35 any base period employer of the individual who has requested such a
36 notice within 10 calendar days from the date the notice of the valid new
37 claim was sent to such base period employer. For purposes of this
38 subsection (c)(3), if the required information is not submitted or
39 postmarked within a response time limit of 10 days after the base period
40 employer notice was sent, the base period employer shall be deemed to
41 have waived its standing as a party to the proceedings arising from the
42 claim and shall be barred from protesting any subsequent decisions about
43 the claim by the secretary, a referee, the board of review or any court,

1 except that the base period employer's response time limit may be waived
2 or extended by the examiner or upon appeal, if timely response was
3 impossible due to excusable neglect. The examiner shall notify the
4 employer of the reconsidered determination, which shall be subject to
5 appeal; or further reconsideration, in accordance with the provisions of
6 K.S.A. 44-709, and amendments thereto.

7 (5) *Time, computation and extension.* In computing the period of time
8 for a base period employer response or appeals under this section from the
9 examiner's or the special examiner's determination or from the referee's
10 decision, the day of the act, event or default from which the designated
11 period of time begins to run shall not be included. The last day of the
12 period shall be included unless it is a Saturday, Sunday or legal holiday, in
13 which event the period runs until the end of the next day ~~which~~ that is not
14 a Saturday, Sunday or legal holiday.

15 (d) *Pooled fund.* All contributions and payments in lieu of
16 contributions and benefit cost payments to the employment security fund
17 shall be pooled and available to pay benefits to any individual entitled
18 thereto under the employment security law, regardless of the source of
19 such contributions or payments in lieu of contributions or benefit cost
20 payments.

21 (e) *Election to become reimbursing employer; payment in lieu of*
22 *contributions.* (1) Any governmental entity, Indian tribes or tribal units,
23 (subdivisions, subsidiaries or business enterprises wholly owned by such
24 Indian tribes), for which services are performed as described in ~~subsection~~
25 ~~(i)(3)(E)~~ of K.S.A. 44-703(i)(3)(E), and amendments thereto, or any
26 nonprofit organization or group of nonprofit organizations described in
27 section 501(c)(3) of the federal internal revenue code of 1986 ~~which~~ that is
28 exempt from income tax under section 501(a) of such code, that becomes
29 subject to the employment security law may elect to become a reimbursing
30 employer under this subsection (e)(1) and agree to pay the secretary for the
31 employment security fund an amount equal to the amount of regular
32 benefits and $\frac{1}{2}$ of the extended benefits paid that are attributable to service
33 in the employ of such reimbursing employer, except that each reimbursing
34 governmental employer, Indian tribes or tribal units shall pay an amount
35 equal to the amount of regular benefits and extended benefits paid for
36 weeks of unemployment beginning after December 31, 1978, for
37 governmental employers and December 21, 2000, for Indian tribes or
38 tribal units to individuals for weeks of unemployment ~~which~~ that begin
39 during the effective period of such election.

40 (A) Any employer identified in this subsection (e)(1) may elect to
41 become a reimbursing employer for a period encompassing not less than
42 four complete calendar years if such employer files with the secretary a
43 written notice of such election within the 30-day period immediately

1 following January 1 of any calendar year or within the 30-day period
2 immediately following the date ~~on which~~ when a determination of
3 subjectivity to the employment security law is issued, whichever occurs
4 later.

5 (B) Any employer ~~which~~ that makes an election to become a
6 reimbursing employer in accordance with subparagraph (A) ~~of this~~
7 ~~subsection (e)(1)~~ will continue to be liable for payments in lieu of
8 contributions until such employer files with the secretary a written notice
9 terminating its election not later than 30 days prior to the beginning of the
10 calendar year for which such termination shall first be effective.

11 (C) Any employer identified in this subsection (e)(1) ~~which~~ that has
12 remained a contributing employer and has been paying contributions under
13 the employment security law for a period subsequent to January 1, 1972,
14 may change to a reimbursing employer by filing with the secretary not
15 later than 30 days prior to the beginning of any calendar year a written
16 notice of election to become a reimbursing employer. Such election shall
17 not be terminable by the employer for four complete calendar years.

18 (D) The secretary may for good cause extend the period within which
19 a notice of election, or a notice of termination, must be filed and may
20 permit an election to be retroactive but not any earlier than with respect to
21 benefits paid after January 1 of the year such election is received.

22 (E) The secretary, in accordance with such rules and regulations as
23 the secretary may adopt, shall notify each employer identified in
24 subsection (e)(1) of any determination ~~which~~ that the secretary may make
25 of its status as an employer and of the effective date of any election ~~which~~
26 that it makes to become a reimbursing employer and of any termination of
27 such election. Such determinations shall be subject to reconsideration,
28 appeal and review in accordance with the provisions of K.S.A. 44-710b,
29 and amendments thereto.

30 (2) *Reimbursement reports and payments.* Payments in lieu of
31 contributions shall be made in accordance with the provisions of ~~paragraph~~
32 *subparagraph (A) of this subsection (e)(2)* by all reimbursing employers
33 except the state of Kansas. Each reimbursing employer shall report total
34 wages paid during each calendar quarter by filing quarterly wage reports
35 with the secretary ~~which~~ that shall be filed by the last day of the month
36 following the close of each calendar quarter. Wage reports are deemed
37 filed as of the date they are placed in the United States mail.

38 (A) At the end of each calendar quarter, or at the end of any other
39 period as determined by the secretary, the secretary shall bill each
40 reimbursing employer, except the state of Kansas: (i) An amount to be paid
41 ~~which~~ that is equal to the full amount of regular benefits plus $\frac{1}{2}$ of the
42 amount of extended benefits paid during such quarter or other prescribed
43 period that is attributable to service in the employ of such reimbursing

1 employer; and (ii) for weeks of unemployment beginning after December
2 31, 1978, each reimbursing governmental employer and December 21,
3 2000, for Indian tribes or tribal units shall be certified an amount to be
4 paid ~~which~~ *that* is equal to the full amount of regular benefits and extended
5 benefits paid during such quarter or other prescribed period that is
6 attributable to service in the employ of such reimbursing governmental
7 employer.

8 (B) Payment of any bill rendered under ~~paragraph~~ *subparagraph* (A)
9 ~~of this subsection (e)(2)~~ shall be made not later than 30 days after such bill
10 was mailed to the last known address of the reimbursing employer, or
11 otherwise was delivered to such reimbursing employer, unless there has
12 been an application for review and redetermination in accordance with
13 ~~paragraph~~ *subparagraph* (D) ~~of this subsection (e)(2)~~.

14 (C) Payments made by any reimbursing employer under the
15 provisions of this subsection (e)(2) shall not be deducted or deductible, in
16 whole or in part, from the remuneration of individuals in the employ of
17 such employer.

18 (D) The amount due specified in any bill from the secretary shall be
19 conclusive on the reimbursing employer, unless, not later than 15 days
20 after the bill was mailed to the last known address of such employer, or
21 was otherwise delivered to such employer, the reimbursing employer files
22 an application for redetermination in accordance with K.S.A. 44-710b, and
23 amendments thereto.

24 (E) Past due payments of amounts certified by the secretary under
25 this section shall be subject to the same interest, penalties and actions
26 required by K.S.A. 44-717, and amendments thereto. (1) If any nonprofit
27 organization or group of nonprofit organizations described in section
28 501(c)(3) of the federal internal revenue code of 1986 or governmental
29 reimbursing employer is delinquent in making payments of amounts
30 certified by the secretary under this section, the secretary may terminate
31 such employer's election to make payments in lieu of contributions as of
32 the beginning of the next calendar year and such termination shall be
33 effective for such next calendar year and the calendar year thereafter so
34 that the termination is effective for two complete calendar years. (2)
35 Failure of the Indian tribe or tribal unit to make required payments,
36 including assessment of interest and penalty within 90 days of receipt of
37 the bill will cause the Indian tribe to lose the option to make payments in
38 lieu of contributions as described pursuant to paragraph (e)(1) for the
39 following tax year unless payment in full is received before contribution
40 rates for the next tax year are calculated. (3) Any Indian tribe that loses the
41 option to make payments in lieu of contributions due to late payment or
42 nonpayment, as described in paragraph (2), shall have such option
43 reinstated, if after a period of one year, all contributions have been made

1 on time and no contributions, payments in lieu of contributions for benefits
2 paid, penalties or interest remain outstanding.

3 (F) Failure of the Indian tribe or any tribal unit thereof to make
4 required payments, including assessments of interest and penalties, after
5 all collection activities deemed necessary by the secretary have been
6 exhausted, will cause services performed by such tribe to not be treated as
7 employment for purposes of ~~subsection (i)(3)(E)~~ of K.S.A. 44-703(i)(3)
8 (E), and amendments thereto. If an Indian tribe fails to make payments
9 required under this section, including assessments of interest and penalties,
10 within 90 days of a final notice of delinquency, the secretary shall
11 immediately notify the United States internal revenue service and the
12 United States department of labor. The secretary may determine that any
13 Indian tribe that loses coverage pursuant to this paragraph may have
14 services performed on behalf of such tribe again deemed "employment" if
15 all contributions, payments in lieu of contributions, penalties and interest
16 have been paid.

17 (G) In the discretion of the secretary, any employer who elects to
18 become liable for payments in lieu of contributions and any nonprofit
19 organization or group of nonprofit organizations described in section 501
20 (c)(3) of the federal internal revenue code of 1986 or governmental
21 reimbursing employer or Indian tribe or tribal unit who is delinquent in
22 filing reports or in making payments of amounts certified by the secretary
23 under this section shall be required within 60 days after the effective date
24 of such election, in the case of an eligible employer so electing, or after the
25 date of notification to the delinquent employer under this subsection (e)(2)
26 (G), in the case of a delinquent employer, to execute and file with the
27 secretary a surety bond, except that the employer may elect, in lieu of a
28 surety bond, to deposit with the secretary money or securities as approved
29 by the secretary or to purchase and deliver to an escrow agent a certificate
30 of deposit to guarantee payment. The amount of the bond, deposit or
31 escrow agreement required by this subsection (e)(2)(G) shall not exceed
32 5.4% of the organization's taxable wages paid for employment by the
33 eligible employer during the four calendar quarters immediately preceding
34 the effective date of the election or the date of notification, in the case of a
35 delinquent employer. If the employer did not pay wages in each of such
36 four calendar quarters, the amount of the bond or deposit shall be as
37 determined by the secretary. Upon the failure of an employer to comply
38 with this subsection (e)(2)(G) within the time limits imposed or to
39 maintain the required bond or deposit, the secretary may terminate the
40 election of such eligible employer or delinquent employer, as the case may
41 be, to make payments in lieu of contributions, and such termination shall
42 be effective for the current and next calendar year.

43 (H) The state of Kansas shall make reimbursement payments

1 quarterly at a fiscal year rate ~~which~~ *that* shall be based upon: (i) The
2 available balance in the state's reimbursing account as of December 31 of
3 each calendar year; (ii) the historical unemployment experience of all
4 covered state agencies during prior years; (iii) the estimate of total covered
5 wages to be paid during the ensuing calendar year; (iv) the applicable
6 fiscal year rate of the claims processing and auditing fee under K.S.A. 75-
7 3798, and amendments thereto; and (v) actuarial and other information
8 furnished to the secretary by the secretary of administration. In accordance
9 with K.S.A. 75-3798, and amendments thereto, the claims processing and
10 auditing fees charged to state agencies shall be deducted from the amounts
11 collected for the reimbursement payments under this paragraph (H) prior
12 to making the quarterly reimbursement payments for the state of Kansas.
13 The fiscal year rate shall be expressed as a percentage of covered total
14 wages and shall be the same for all covered state agencies. The fiscal year
15 rate for each fiscal year will be certified in writing by the secretary to the
16 secretary of administration on July 15 of each year and such certified rate
17 shall become effective on the July 1 immediately following the date of
18 certification. A detailed listing of benefit charges applicable to the state's
19 reimbursing account shall be furnished quarterly by the secretary to the
20 secretary of administration and the total amount of charges deducted from
21 previous reimbursing payments made by the state. On January 1 of each
22 year, if it is determined that benefit charges exceed the amount of prior
23 reimbursing payments, an upward adjustment shall be made therefor in the
24 fiscal year rate ~~which will~~ *to* be certified on the ensuing July 15. If total
25 payments exceed benefit charges, all or part of the excess may be
26 refunded, at the discretion of the secretary, from the fund or retained in the
27 fund as part of the payments ~~which~~ *that* may be required for the next fiscal
28 year.

29 (3) *Allocation of benefit costs.* The reimbursing account of each
30 reimbursing employer shall be charged the full amount of regular benefits
31 and ½ of the amount of extended benefits paid except that each
32 reimbursing governmental employer's account shall be charged the full
33 amount of regular benefits and extended benefits paid for weeks of
34 unemployment beginning after December 31, 1978, to individuals whose
35 entire base period wage credits are from such employer. When benefits
36 received by an individual are based upon base period wage credits from
37 more than one employer then the reimbursing employer's or reimbursing
38 governmental employer's account shall be charged in the same ratio as
39 base period wage credits from such employer bear to the individual's total
40 base period wage credits. Notwithstanding any other provision of the
41 employment security law, no reimbursing employer's or reimbursing
42 governmental employer's account shall be charged for payments of
43 extended benefits ~~which~~ *that* are wholly reimbursed to the state by the

1 federal government. *Payments of unemployment compensation that are*
2 *wholly reimbursed to the reimbursing employer by the federal government*
3 *shall be charged for the purpose of such reimbursement under the federal*
4 *CARES act, public law 116-136.*

5 (A) *Proportionate allocation (when fewer than all reimbursing base*
6 *period employers are liable).* If benefits paid to an individual are based on
7 wages paid by one or more reimbursing employers and on wages paid by
8 one or more contributing employers or rated governmental employers, the
9 amount of benefits payable by each reimbursing employer shall be an
10 amount ~~which~~ *that* bears the same ratio to the total benefits paid to the
11 individual as the total base period wages paid to the individual by such
12 employer bears to the total base period wages paid to the individual by all
13 of such individual's base period employers.

14 (B) *Proportionate allocation (when all base period employers are*
15 *reimbursing employers).* If benefits paid to an individual are based on
16 wages paid by two or more reimbursing employers, the amount of benefits
17 payable by each such employer shall be an amount ~~which~~ *that* bears the
18 same ratio to the total benefits paid to the individual as the total base
19 period wages paid to the individual by such employer bear to the total base
20 period wages paid to the individual by all of such individual's base period
21 employers.

22 (4) *Group accounts.* Two or more reimbursing employers may file a
23 joint application to the secretary for the establishment of a group account
24 for the purpose of sharing the cost of benefits paid that are attributable to
25 service in the employment of such reimbursing employers. Each such
26 application shall identify and authorize a group representative to act as the
27 group's agent for the purposes of this subsection (e)(4). Upon approval of
28 the application, the secretary shall establish a group account for such
29 employers effective as of the beginning of the calendar quarter in which
30 the secretary receives the application and shall notify the group's
31 representative of the effective date of the account. Such account shall
32 remain in effect for not less than four years and thereafter such account
33 shall remain in effect until terminated at the discretion of the secretary or
34 upon application by the group. Upon establishment of the account, each
35 member of the group shall be liable for payments in lieu of contributions
36 with respect to each calendar quarter in the amount that bears the same
37 ratio to the total benefits paid in such quarter that are attributable to service
38 performed in the employ of all members of the group as the total wages
39 paid for service in employment by such member in such quarter bear to the
40 total wages paid during such quarter for service performed in the employ
41 of all members of the group. The secretary shall adopt such rules and
42 regulations as the secretary deems necessary with respect to applications
43 for establishment, maintenance and termination of group accounts that are

1 authorized by this subsection (e)(4), for addition of new members to, and
2 withdrawal of active members from such accounts, and for the
3 determination of the amounts that are payable under this subsection (e)(4)
4 by members of the group and the time and manner of such payments.

5 Sec. 31. K.S.A. 2019 Supp. 44-757 is hereby amended to read as
6 follows: 44-757. *Shared work unemployment compensation program.* (a)
7 As used in this section:

8 (1) "Affected unit" means a specified department, shift or other unit
9 of two or more employees that is designated by an employer to participate
10 in a shared work plan.

11 (2) "Fringe benefit" means health insurance, a retirement benefit
12 received under a pension plan, a paid vacation day, a paid holiday, sick
13 leave, and any other analogous employee benefit that is provided by an
14 employer.

15 (3) "Fund" has the meaning ascribed thereto by K.S.A. 44-703(k),
16 and amendments thereto.

17 (4) "Normal weekly hours of work" means the lesser of 40 hours or
18 the average obtained by dividing the total number of hours worked per
19 week during the preceding twelve-week period by the number 12.

20 (5) "Participating employee" means an employee who works a
21 reduced number of hours under a shared work plan.

22 (6) "Participating employer" means an employer who has a shared
23 work plan in effect.

24 (7) "Secretary" means the secretary of labor or the secretary's
25 designee.

26 (8) "Shared work benefit" means an unemployment compensation
27 benefit that is payable to an individual in an affected unit because the
28 individual works reduced hours under an approved shared work plan.

29 (9) "Shared work plan" means a program for reducing unemployment
30 under which employees who are members of an affected unit share the
31 work remaining after a reduction in their normal weekly hours of work.

32 (10) "Shared work unemployment compensation program" means a
33 program designed to reduce unemployment and stabilize the work force by
34 allowing certain employees to collect unemployment compensation
35 benefits if the employees share the work remaining after a reduction in the
36 total number of hours of work and a corresponding reduction in wages.

37 (b) The secretary shall establish a voluntary shared work
38 unemployment compensation program as provided by this section. The
39 secretary may adopt rules and regulations and establish procedures
40 necessary to administer the shared work unemployment compensation
41 program.

42 (c) An employer who wishes to participate in the shared work
43 unemployment compensation program must submit a written shared work

1 plan to the secretary for the secretary's approval. As a condition for
2 approval, a participating employer must agree to furnish the secretary with
3 reports relating to the operation of the shared work plan as requested by
4 the secretary. The employer shall monitor and evaluate the operation of the
5 established shared work plan as requested by the secretary and shall report
6 the findings to the secretary.

7 (d) The secretary may approve a shared work plan if:

8 (1) The shared work plan applies to and identifies a specific affected
9 unit;

10 (2) the employees in the affected unit are identified by name and
11 social security number;

12 (3) the shared work plan reduces the normal weekly hours of work
13 for an employee, including regular part-time employees, in the affected
14 unit by not less than 20% and not more than 40%;

15 (4) the shared work plan applies to at least 10% of the employees in
16 the affected unit;

17 (5) the shared work plan describes the manner ~~in which~~ *that* the
18 participating employer treats the fringe benefits of each employee in the
19 affected unit and the employer certifies that if the employer provides
20 health benefits and retirement benefits under a defined benefit plan, as
21 defined in 26 U.S.C. § 414(j), or contributions under a defined
22 contribution plan, as defined in 26 U.S.C. § 414(i), to any employee whose
23 workweek is reduced under the program that such benefits will continue to
24 be provided to employees participating in the shared work compensation
25 program under the same terms and conditions as though the workweek of
26 such employee had not been reduced or to the same extent as other
27 employees not participating in the shared work program;

28 (6) the employer certifies that the implementation of a shared work
29 plan and the resulting reduction in work hours is in lieu of layoffs that
30 would affect at least 10% of the employees in the affected unit and that
31 would result in an equivalent reduction in work hours;

32 (7) the employer has filed all reports required to be filed under the
33 employment security law for all past and current periods and has paid all
34 contributions, benefit cost payments, or if a reimbursing employer has
35 made all payments in lieu of contributions due for all past and current
36 periods;

37 (8) (A) a contributing employer must be eligible for a rate
38 computation under K.S.A. 44-710a(a)(2), and amendments thereto, ~~and is~~
39 ~~not a negative account employer as defined by K.S.A. 44-710a(d), and~~
40 ~~amendments thereto~~ *and the contributing employer, as determined by the*
41 *secretary, does not adversely impact the state's eligibility under section*
42 *2108 of the federal CARES act, public law 116-136;* (B) a rated
43 governmental employer must be eligible for a rate computation under

1 K.S.A. 44-710d(g), and amendments thereto;

2 (9) eligible employees may participate, as appropriate, in training,
3 including without limitation, employer-sponsored training or worker
4 training funded under the workforce investment act of 1998, to enhance
5 job skills if such program has been approved by the state of Kansas;

6 (10) the employer includes a plan for giving advance notice, where
7 feasible, to an employee whose workweek is to be reduced together with
8 an estimate of the number of layoffs that would have occurred absent the
9 ability to participate in shared work compensation and such other
10 information as the secretary of labor determines is appropriate; and

11 (11) the terms of the employer's written plan and implementation are
12 consistent with employer obligations under applicable federal and Kansas
13 laws.

14 (e) If any of the employees who participate in a shared work plan
15 under this section are covered by a collective bargaining agreement, the
16 shared work plan must be approved in writing by the collective bargaining
17 agent.

18 (f) A shared work plan may not be implemented to subsidize seasonal
19 employers during the off-season.

20 (g) The secretary shall approve or deny a shared work plan no later
21 than the 30th day after the day the shared work plan is received by the
22 secretary. The secretary shall approve or deny a shared work plan in
23 writing. If the secretary denies a shared work plan, the secretary shall
24 notify the employer of the reasons for the denial.

25 (h) A shared work plan is effective on the date it is approved by the
26 secretary, except for good cause a shared work plan may be effective at
27 any time within a period of 14 days prior to the date such plan is approved
28 by the secretary. The shared work plan expires on the last day of the 12th
29 full calendar month after the effective date of the shared work plan.

30 (i) An employer may modify a shared work plan created under this
31 section to meet changed conditions if the modification conforms to the
32 basic provisions of the shared work plan as approved by the secretary. The
33 employer must report the changes made to the shared work plan in writing
34 to the secretary before implementing the changes. If the original shared
35 work plan is substantially modified, the secretary shall reevaluate the
36 shared work plan and may approve the modified shared work plan if it
37 meets the requirements for approval under subsection (d). The approval of
38 a modified shared work plan does not affect the expiration date originally
39 set for that shared work plan. If substantial modifications cause the shared
40 work plan to fail to meet the requirements for approval, the secretary shall
41 deny approval to the modifications as provided by subsection (g).

42 (j) Notwithstanding any other provisions of the employment security
43 law, an individual is unemployed and is eligible for shared work benefits

1 in any week in which the individual, as an employee in an affected unit,
2 works for less than the individual's normal weekly hours of work in
3 accordance with an approved shared work plan in effect for that week. The
4 secretary may not deny shared work benefits for any week to an otherwise
5 eligible individual by reason of the application of any provision of the
6 employment security law that relates to availability for work, active search
7 for work or refusal to apply for or accept work with an employer other
8 than the participating employer.

9 (k) An individual is eligible to receive shared work benefits with
10 respect to any week in which the secretary finds that:

11 (1) The individual is employed as a member of an affected unit
12 subject to a shared work plan that was approved before the week in
13 question and is in effect for that week;

14 (2) the individual is able to work and is available for additional hours
15 of work or full-time work with the participating employer;

16 (3) the individual's normal weekly hours of work have been reduced
17 by at least 20% but not more than 40%, with a corresponding reduction in
18 wages; and

19 (4) the individual's normal weekly hours of work and wages have
20 been reduced as described in subsection (k)(3) for a waiting period of one
21 week ~~which~~ that occurs within the period the shared work plan is in effect,
22 which period includes the week for which the individual is claiming shared
23 work benefits.

24 (l) The secretary shall pay an individual who is eligible for shared
25 work benefits under this section a weekly shared work benefit amount
26 equal to the individual's regular weekly benefit amount for a period of total
27 unemployment multiplied by the nearest full percentage of reduction of the
28 individual's hours as set forth in the employer's shared work plan. If the
29 shared benefit amount is not a multiple of \$1, the secretary shall reduce the
30 amount to the next lowest multiple of \$1. All shared work benefits under
31 this section shall be payable from the fund.

32 (m) An individual may not receive shared work benefits and regular
33 unemployment compensation benefits in an amount that exceeds the
34 maximum total amount of benefits payable to that individual in a benefit
35 year as provided by K.S.A. 44-704(g), and amendments thereto.

36 (n) An individual who has received all of the shared work benefits
37 and regular unemployment compensation benefits available in a benefit
38 year is an exhaustee under K.S.A. 44-704a and 44-704b, and amendments
39 thereto, and is entitled to receive extended benefits under such statutes if
40 the individual is otherwise eligible under such statutes.

41 (o) The secretary may terminate a shared work plan for good cause if
42 the secretary determines that the shared work plan is not being executed
43 according to the terms and intent of the shared work unemployment

1 compensation program.

2 (p) Notwithstanding any other provisions of this section, an
3 individual shall not be eligible to receive shared work benefits for more
4 than 26 calendar weeks during the 12-month period of the shared work
5 plan, except that two weeks of additional benefits shall be payable to
6 claimants who exhaust regular benefits and any benefits under any other
7 federal or state extended benefits program during the period July 1, 2003
8 through June 30, 2004. No week shall be counted as a week for which an
9 individual is eligible for shared work benefits for the purposes of this
10 section unless the week occurs within the 12-month period of the shared
11 work plan.

12 (q) No shared work benefit payment shall be made under any shared
13 work plan or this section for any week ~~which~~ *that* commences before April
14 1, 1989.

15 (r) This section shall be construed as part of the employment security
16 law.

17 Sec. 32. K.S.A. 48-924 is hereby amended to read as follows: 48-924.

18 (a) The governor shall be responsible for meeting the dangers to the state
19 and people presented by disasters.

20 (b) (1) *Subject to the provisions of section 5, and amendments*
21 *thereto*, the governor, upon finding that a disaster has occurred or that
22 occurrence or the threat thereof is imminent, shall issue a proclamation
23 declaring a state of disaster emergency.

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

37 (3) The state of disaster emergency so declared shall continue until
38 the governor finds that the threat or danger of disaster has passed, or the
39 disaster has been dealt with to the extent that emergency conditions no
40 longer exist. Upon making such findings the governor shall terminate the
41 state of disaster emergency by proclamation, but except as provided in
42 paragraph (4), no state of disaster emergency may continue for longer than
43 15 days unless ratified by concurrent resolution of the legislature, with the

1 single exception that upon specific application by the governor to the state
2 finance council and an affirmative vote of a majority of the legislative
3 members thereof, a state of disaster emergency may be extended once for a
4 specified period not to exceed 30 days beyond such 15-day period.

5 (4) If the state of disaster emergency is proclaimed pursuant to
6 paragraph (2), the governor shall terminate the state of disaster emergency
7 by proclamation within 15 days, unless ratified by concurrent resolution of
8 the legislature, except that when the legislature is not in session and upon
9 specific application by the governor to the state finance council and an
10 affirmative vote of a majority of the legislative members thereof, a state of
11 disaster emergency may be extended for a specified period not to exceed
12 30 days. The state finance council may authorize additional extensions of
13 the state of disaster emergency by a unanimous vote of the legislative
14 members thereof for specified periods not to exceed 30 days each. Such
15 state of disaster emergency shall be terminated on the 15th day of the next
16 regular 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 section 5, and*
19 *amendments thereto, shall terminate on September 15, 2020, as provided*
20 *in section 5, and amendments thereto, except that when the legislature is*
21 *not in session and upon specific application by the governor to the state*
22 *finance council and an affirmative vote of at least six of the legislative*
23 *members of the council, this state of disaster emergency may be extended*
24 *for specified periods not to exceed 30 days each. No such extension*
25 *granted by the state finance council shall continue past January 26, 2021.*

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

30 ~~(6)~~(7) Any proclamation declaring or terminating a state of disaster
31 emergency which is issued under this subsection shall indicate the nature
32 of the disaster, the area or areas threatened or affected by the disaster and
33 the conditions which have brought about, or which make possible the
34 termination of, the state of disaster emergency. Each such proclamation
35 shall be disseminated promptly by means calculated to bring its contents to
36 the attention of the general public and, unless the circumstances attendant
37 upon the disaster prevent the same, each such proclamation shall be filed
38 promptly with the division of emergency management, the office of the
39 secretary of state and each city clerk or county clerk, as the case may be, in
40 the area to which such proclamation applies.

41 (c) In the event of the absence of the governor from the state or the
42 existence of any constitutional disability of the governor, an officer
43 specified in K.S.A. 48-1204, and amendments thereto, in the order of

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

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

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

32 Sec. 33. K.S.A. 2019 Supp. 48-925 is hereby amended to read as
33 follows: 48-925. (a) During any state of disaster emergency declared under
34 K.S.A. 48-924, and amendments thereto, the governor shall be
35 commander-in-chief of the organized and unorganized militia and of all
36 other forces available for emergency duty. To the greatest extent
37 practicable, the governor shall delegate or assign command authority by
38 prior arrangement, embodied in appropriate executive orders or in rules
39 and regulations of the adjutant general, but nothing herein shall restrict the
40 authority of the governor to do so by orders issued at the time of a disaster.

41 (b) Under the provisions of this act and for the implementation
42 thereof of this act, the governor may issue orders and proclamations which
43 shall to exercise the powers conferred by subsection (c) that have the force

1 and effect of law during the period of a state of disaster emergency
2 declared under ~~subsection (b)~~ of K.S.A. 48-924(b), and amendments
3 thereto, ~~and which~~, *or as provided in section 5, and amendments thereto.*
4 *Within 24 hours of the issuance of any such order, the governor shall call*
5 *a meeting of the state finance council for the purposes of reviewing such*
6 *order. Such orders and proclamations shall be null and void thereafter*
7 ~~unless ratified by concurrent resolution of the legislature after the period~~
8 *of a state of disaster emergency has ended. Such orders and proclamations*
9 may be revoked at any time by concurrent resolution of the legislature.

10 (c) During a state of disaster emergency declared under K.S.A. 48-
11 924, and amendments thereto, ~~and~~ in addition to any other powers
12 conferred upon the governor by law *and subject to the provisions of*
13 *subsections (d), (e) and (f)*, the governor may:

14 (1) Suspend the provisions of any regulatory statute prescribing the
15 procedures for conduct of state business, or the orders or rules and
16 regulations of any state agency which implements such statute, if strict
17 compliance with the provisions of such statute, order or rule and regulation
18 would prevent, hinder or delay in any way necessary action in coping with
19 the disaster;

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

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

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

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

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

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

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

40 (9) make provision for the availability and use of temporary
41 emergency housing;

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

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

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

11 (e) *Notwithstanding any provision of this section to the contrary and*
12 *pursuant to the governor's state of disaster emergency proclamation*
13 *issued on May 26, 2020, the governor shall not have the power or*
14 *authority to restrict businesses from operating or to restrict the movement*
15 *or gathering of individuals. The provisions of this subsection shall expire*
16 *on September 15, 2020.*

17 (f) *The governor shall not have the power under the provisions of the*
18 *Kansas emergency management act or the provisions of any other law to*
19 *alter or modify any provisions of the election laws of the state including,*
20 *but not limited to, the method by which elections are conducted or the*
21 *timing of such elections.*

22 (g) The governor shall exercise the powers conferred by subsection
23 (c) by issuance of orders under subsection (b). *Each order issued pursuant*
24 *to the authority granted by subsection (b) shall specify the provision or*
25 *provisions of subsection (c) by specific reference to each paragraph of*
26 *subsection (c) that confers the power under which the order was issued.*
27 The adjutant general, subject to the direction of the governor, shall
28 administer such orders.

29 (h) *The board of county commissioners of any county may issue an*
30 *order relating to public health that includes provisions that are less*
31 *stringent than the provisions of an executive order effective statewide*
32 *issued by the governor. Any board of county commissioners issuing such*
33 *an order must make the following findings and include such findings in the*
34 *order:*

35 (1) *The board has consulted with the local health officer or other*
36 *local health officials regarding the governor's executive order;*

37 (2) *following such consultation, implementation of the full scope of*
38 *the—of provisions in the governor's executive order are not necessary to*
39 *protect the public health and safety of the county; and*

40 (3) *all other relevant findings to support the board's decision.*

41 Sec. 34. On and after January 26, 2021, K.S.A. 2019 Supp. 48-925, as
42 amended by section 33 of this act, is hereby amended to read as follows:
43 48-925. (a) During any state of disaster emergency declared under K.S.A.

1 48-924, and amendments thereto, the governor shall be commander-in-
2 chief of the organized and unorganized militia and of all other forces
3 available for emergency duty. To the greatest extent practicable, the
4 governor shall delegate or assign command authority by prior
5 arrangement, embodied in appropriate executive orders or in rules and
6 regulations of the adjutant general, but nothing herein shall restrict the
7 authority of the governor to do so by orders issued at the time of a disaster.

8 (b) Under the provisions of this act and for the implementation of this
9 ~~act thereof~~, the governor may issue orders to exercise the powers conferred
10 ~~by subsection (c) that~~ and proclamations which shall have the force and
11 effect of law during the period of a state of disaster emergency declared
12 under *subsection (b) of K.S.A. 48-924(b)*, and amendments thereto, ~~or as~~
13 ~~provided in section 5, and amendments thereto. Within 24 hours of the~~
14 ~~issuance of any such order, the governor shall call a meeting of the state~~
15 ~~finance council for the purposes of reviewing such order. Such, and which~~
16 ~~orders and proclamations shall be null and void after the period of a state~~
17 ~~of disaster emergency has ended thereafter unless ratified by concurrent~~
18 ~~resolution of the legislature. Such orders and proclamations may be~~
19 ~~revoked at any time by concurrent resolution of the legislature.~~

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

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

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) The governor shall exercise the powers conferred by subsection~~
33 ~~(c) by issuance of orders under subsection (b). Each order issued pursuant~~
34 ~~to the authority granted by subsection (b) shall specify the provision or~~
35 ~~provisions of subsection (c) by specific reference to each paragraph of~~
36 ~~subsection (c) that confers the power under which the order was issued.~~
37 ~~The adjutant general, subject to the direction of the governor, shall~~
38 ~~administer such orders.~~

39 ~~(h) The board of county commissioners of any county may issue an~~
40 ~~order relating to public health that includes provisions that are less~~
41 ~~stringent than the provisions of an executive order effective statewide~~
42 ~~issued by the governor. Any board of county commissioners issuing such~~
43 ~~an order must make the following findings and include such findings in the~~

1 order:

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

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

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

8 Sec. 35. K.S.A. 48-932 is hereby amended to read as follows: 48-932.

9 (a) A state of local disaster emergency may be declared by the chairman of
10 the board of county commissioners of any county, or by the mayor or other
11 principal executive officer of each city of this state having a disaster
12 emergency plan, upon a finding by such officer that a disaster has occurred
13 or the threat thereof is imminent within such county or city. No state of
14 local disaster emergency shall be continued for a period in excess of seven
15 ~~(7)~~ days or renewed, except with the consent of the board of county
16 commissioners of such county or the governing body of such city, ~~as the~~
17 ~~ease may be~~. Any order or proclamation declaring, continuing or
18 terminating a local disaster emergency shall be given prompt and general
19 publicity and shall be filed ~~promptly~~ with the county clerk or city clerk, ~~as~~
20 ~~the ease may be~~. *Any such declaration may be reviewed, amended or*
21 *revoked by the board of county commissioners or the governing body of*
22 *the city, respectively, at a meeting of such governing body.*

23 (b) In the event of the absence of the chairman of the board of county
24 commissioners from the county or the incapacity of such chairman, the
25 board of county commissioners, by majority action of the remaining
26 members thereof, may declare a state of local disaster emergency in the
27 manner provided in and subject to the provisions of subsection (a). In the
28 event of the absence of the mayor or other principal executive officer of a
29 city from the city or the incapacity of such mayor or officer, the governing
30 body of the city, by majority action of the remaining members thereof,
31 may declare a state of local disaster emergency in the manner provided in
32 and subject to the provisions of subsection (a). Any state of local disaster
33 emergency and any actions taken pursuant to applicable local and
34 interjurisdictional disaster emergency plans, under this subsection shall
35 continue and have full force and effect as authorized by law unless
36 modified or terminated in the manner prescribed by law.

37 (c) The declaration of a local disaster emergency shall activate the
38 response and recovery aspects of any and all local and interjurisdictional
39 disaster emergency plans which are applicable to such county or city, and
40 shall initiate the rendering of aid and assistance thereunder.

41 (d) No interjurisdictional disaster agency or any official thereof may
42 declare a local disaster emergency, unless expressly authorized by the
43 agreement pursuant to which the agency functions. However, an

1 interjurisdictional disaster agency shall provide aid and services in
2 accordance with the agreement pursuant to which it functions in the case
3 of a state of local disaster emergency declared under subsection (a).

4 Sec. 36. K.S.A. 48-939 is hereby amended to read as follows: 48-939.
5 ~~The knowing and willful violation of~~(a) *A person who intentionally*
6 *violates* any provision of this act ~~or~~, any rule and regulation adopted by the
7 adjutant general under this act or any lawful order or proclamation issued
8 under authority of this act whether pursuant to a proclamation declaring a
9 state of disaster emergency under K.S.A. 48-924, *and amendments thereto*,
10 or a declaration of a state of local disaster emergency under K.S.A. 48-
11 932, ~~shall constitute a class A misdemeanor and any person convicted of~~
12 ~~such violation shall be punished as provided by law therefor and~~
13 *amendments thereto, may incur a civil penalty in an amount not to exceed*
14 *\$2,500 per violation.* Each penalty may be assessed in addition to any
15 other penalty provided by law.

16 (b) *Violations of this section shall be enforced through an action*
17 *brought under chapter 60 of the Kansas Statutes Annotated, and*
18 *amendments thereto, by the attorney general or the county or district*
19 *attorney in the county in which the violation took place. Civil penalties*
20 *sued for and recovered by the county or district attorney shall be paid into*
21 *the general fund of the county where the proceedings were instigated.*

22 (c) *The attorney general or any county or district attorney may bring*
23 *an action to enjoin, or to obtain a restraining order, against a person who*
24 *has violated, is violating or is otherwise likely to violate this act.*

25 Sec. 37. K.S.A. 65-201 is hereby amended to read as follows: 65-201.
26 (a) ~~The board of county commissioners of the several counties of this state~~
27 ~~each county shall act as the county boards board of health for their~~
28 ~~respective counties the county.~~ Each county board ~~thus created~~ shall
29 appoint a person licensed to practice medicine and surgery, preference
30 being given to persons who have training in public health, who shall serve
31 *as the local health officer and who shall act* in an advisory capacity to the
32 county board of health ~~and as the local health officer, except that.~~ The
33 appointing authority of city-county, county or multicounty health units
34 with less than ~~one hundred thousand (100,000)~~ 100,000 population may
35 appoint a qualified local health program administrator as the local health
36 officer if a person licensed to practice medicine and surgery or person
37 licensed to practice dentistry is designated as a consultant to direct the
38 administrator on program and related medical and professional matters.
39 The local health officer or local health program administrator shall hold
40 office at the pleasure of the board.

41 (b) *Any order issued by the local health officer, including orders*
42 *issued as a result of an executive order of the governor, may be reviewed,*
43 *amended or revoked by the board of county commissioners of the county*

1 *affected by such order at a meeting of the board. Any order reviewed or*
2 *amended by the board shall include an expiration date set by the board*
3 *and may be amended or revoked at an earlier date by a majority vote of*
4 *the board.*

5 (c) The board of county commissioners in any county having a
6 population of less than ~~fifteen thousand (15,000)~~ 15,000 may contract with
7 the governing body of any hospital located in such county for the purpose
8 of authorizing such governing body *of the hospital* to supply services to a
9 county board of health.

10 Sec. 38. K.S.A. 65-202 is hereby amended to read as follows: 65-202.

11 (a) The local health officer in each county throughout the state,
12 immediately after ~~his or her~~ *such officer's* appointment, shall take the same
13 oath of office prescribed by law for the county officers, shall give bond of
14 ~~five hundred dollars (\$500)~~ \$500 conditioned for the faithful performance
15 of ~~his or her~~ *the officer's* duties, shall keep an accurate record of all the
16 transactions of ~~his or her~~ *such* office, shall turn over to ~~his or her~~ *the*
17 successor in office or to the county or joint board of health selecting such
18 officer, on the expiration of ~~his or her~~ *such officer's* term of office, all
19 records, documents and other articles belonging to the office and shall
20 faithfully account to ~~said~~ *board of county commissioners* and to the county
21 and state for all moneys coming into ~~his or her~~ *hands by virtue of* the
22 office. Such officer shall notify the secretary of health and environment of
23 ~~his or her~~ *such officer's* appointment and qualification, ~~as herein provided~~
24 ~~for,~~ and provide the secretary with ~~his or her~~ *post-office address such*
25 *officer's contact information.*

26 Such officer shall receive and distribute without delay in the county ~~for~~
27 ~~which he or she is appointed~~ all forms from the secretary of health and
28 environment to the rightful persons, all returns from persons licensed to
29 practice medicine and surgery, assessors and local boards to said secretary,
30 shall keep an accurate record of all of the transactions of ~~his or her~~ *such*
31 office and shall turn over all records and documents kept by such officer,
32 ~~as herein provided, and all other articles belonging to the office to his or~~
33 ~~her~~ *the* successor in office, or to the county or joint board electing such
34 officer, on the expiration of ~~his or her~~ *the* term of office.

35 ~~Such~~ *The local health* officer shall upon the opening of the fall term of
36 school, ~~make or have made~~ a sanitary inspection of each school building
37 and grounds, and shall ~~make or have made~~ such additional inspections
38 ~~thereof~~ as are necessary to protect the public health of the students of the
39 school.

40 (c) (1) Such officer shall ~~make or have made~~ an investigation of each
41 case of smallpox, diphtheria, typhoid fever, scarlet fever, acute anterior
42 poliomyelitis (infantile paralysis), epidemic cerebro-spinal meningitis and
43 such other acute infectious, contagious or communicable diseases as may

1 be required, and shall use all known measures to prevent the spread of any
2 such infectious, contagious or communicable disease, and shall perform
3 such other duties as this act, ~~his or her~~ the county or joint board, *board of*
4 *health* or the secretary of health and environment may require.

5 (2) *Any order issued by the local health officer, including orders*
6 *issued as a result of an executive order of the governor, on behalf of a*
7 *county regarding the remediation of any infectious disease may be*
8 *reviewed, amended or revoked by the board of county commissioners of*
9 *any county affected by such order in the manner provided by K.S.A. 65-*
10 *201(b), and amendments thereto.*

11 Such officer shall receive ~~for his or her services such reasonable~~
12 compensation as ~~his or her set by the board may allow~~ and with the
13 approval of ~~his or her~~ the board of health may employ a skilled
14 professional nurse and other additional personnel whenever deemed
15 necessary for the protection of the public health.

16 ~~All of said several sums allowed shall be paid out of the county~~
17 ~~treasury. For~~ Any failure or neglect of ~~said~~ the local health officer to
18 perform any of the duties prescribed in this act, ~~he or she~~ the officer may
19 be removed from office by the ~~secretary of health and environment, as~~
20 ~~well as in the manner prescribed by the preceding section~~ county board of
21 *health*. In addition to removal from office ~~as provided herein~~, for any
22 failure or neglect to perform any of the duties prescribed by this act, ~~said~~
23 the local health officer shall be deemed guilty of a misdemeanor and, upon
24 conviction, be fined not less ~~than ten dollars (\$10)~~ \$10 nor more than ~~one~~
25 ~~hundred dollars (\$100)~~ \$100 for each and every offense.

26 Sec. 39. K.S.A. 65-468 is hereby amended to read as follows: 65-468.
27 As used in K.S.A. 65-468 ~~to through~~ 65-474, ~~inclusive~~, and amendments
28 thereto:

29 (a) ~~"Health care~~ *Healthcare* provider" means any person licensed or
30 otherwise authorized by law to provide health care services in this state or
31 a professional corporation organized pursuant to the professional
32 corporation law of Kansas by persons who are authorized by law to form
33 such corporation and who are health care providers as defined by this
34 subsection, or an officer, employee or agent thereof, acting in the course
35 and scope of employment or agency.

36 (b) "Member" means any hospital, emergency medical service, local
37 health department, home health agency, adult care home, medical clinic,
38 mental health center or clinic or nonemergency transportation system.

39 (c) "Mid-level practitioner" means a physician assistant or advanced
40 practice registered nurse who has entered into a written protocol with a
41 rural health network physician.

42 (d) "Physician" means a person licensed to practice medicine and
43 surgery.

1 (e) "Rural health network" means an alliance of members, including
2 at least one critical access hospital and at least one other hospital ~~which,~~
3 *that* has developed a comprehensive plan submitted to and approved by the
4 secretary of health and environment regarding: Patient referral and
5 transfer; the provision of emergency and nonemergency transportation
6 among members; the development of a network-wide emergency services
7 plan; and the development of a plan for sharing patient information and
8 services between hospital members concerning medical staff credentialing,
9 risk management, quality assurance and peer review.

10 (f) (1) "Critical access hospital" means a member of a rural health
11 network ~~which that:~~ Makes available ~~twenty-four hour~~ 24-hour emergency
12 care services; provides not more than 25 acute care inpatient beds or in the
13 case of a facility with an approved swing-bed agreement a combined total
14 of extended care and acute care beds that does not exceed 25 beds;
15 provides acute inpatient care for a period that does not exceed, on an
16 annual average basis, 96 hours per patient; and provides nursing services
17 under the direction of a licensed professional nurse and continuous
18 licensed professional nursing services for not less than 24 hours of every
19 day when any bed is occupied or the facility is open to provide services for
20 patients unless an exemption is granted by the licensing agency pursuant to
21 rules and regulations. The critical access hospital may provide any services
22 otherwise required to be provided by a full-time, on-site dietician,
23 pharmacist, laboratory technician, medical technologist and radiological
24 technologist on a part-time, off-site basis under written agreements or
25 arrangements with one or more providers or suppliers recognized under
26 medicare. The critical access hospital may provide inpatient services by a
27 physician assistant, advanced practice registered nurse or a clinical nurse
28 specialist subject to the oversight of a physician who need not be present
29 in the facility. In addition to the facility's 25 acute beds or swing beds, or
30 both, the critical access hospital may have a psychiatric unit or a
31 rehabilitation unit, or both. Each unit shall not exceed 10 beds and neither
32 unit ~~will shall~~ count toward the 25-bed limit, ~~nor will these units or~~ be
33 subject to the average 96-hour length of stay restriction.

34 (2) *Notwithstanding the provisions of paragraph (1), prior to June*
35 *30, 2021, to the extent that a critical access hospital determines it is*
36 *necessary to treat COVID-19 patients or to separate COVID-19 patients*
37 *and non-COVID-19 patients, such critical access hospital shall not be*
38 *limited to 25 beds or, in the case of a facility with an approved swing bed*
39 *agreement, to a combined total of 25 extended care and acute care beds,*
40 *and shall not be limited to providing acute inpatient care for a period of*
41 *time that does not exceed, on an annual average basis, 96 hours per*
42 *patient.*

43 (g) "Hospital" means a hospital other than a critical access hospital

1 ~~which~~ *that* has entered into a written agreement with at least one critical
2 access hospital to form a rural health network and to provide medical or
3 administrative supporting services within the limit of the hospital's
4 capabilities.

5 New Sec. 40. The provisions of this act are severable. If any portion
6 of the act is declared unconstitutional or invalid, or the application of any
7 portion of the act to any person or circumstance is held unconstitutional or
8 invalid, the invalidity shall not affect other portions of the act that can be
9 given effect without the invalid portion or application, and the
10 applicability of such other portions of the act to any person or
11 circumstance shall remain valid and enforceable.

12 Sec. 41. Section 1 of 2020 House Substitute for Senate Bill No. 102,
13 K.S.A. 48-924, 48-932, 48-939, 65-201, 65-202 and 65-468 and K.S.A.
14 2019 Supp. 19-101a, 41-2653, 44-702, 44-705, as amended by section 2 of
15 2020 Senate Bill No. 27, 44-709, 44-710, 44-757 and 48-925 are hereby
16 repealed.

17 Sec. 42. On and after January 26, 2021, K.S.A. 2019 Supp. 48-925, as
18 amended by section 33 of this act, is hereby repealed.

19 Sec. 43. This act shall take effect and be in force from and after its
20 publication in the Kansas register.