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

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

New Section 1. (a) The provisions of sections 1 through 7, and
amendments thereto, shall be known and may be cited as the educator
protection act.
(b) The purposes of the educator protection act is to establish the
Kansas educator liability fund to provide excess professional liability
insurance coverage for all teachers and student teachers, subject to the
appropriations therefor. The Kansas educator liability fund shall protect
against damages for claims arising out of the performance of teachers' and
student teachers' duties within the scope of their employment or
assignment.

New Sec. 2. As used in sections 1 through 7, and amendments
thereto:
(a) "Commissioner" means the commissioner of insurance.
(b) "State board" means the state board of education.
(c) "Student teacher" means an individual enrolled as a student in a
college or university who holds a valid student teacher certificate issued by
the state board.
(d) "Teacher" means an individual licensed to practice teaching by the
state board.

New Sec. 3. (a) There is hereby established in the state treasury the
Kansas educator liability fund to be administered by the commissioner of
insurance. Moneys in the Kansas educator liability fund shall be expended
only for the purposes established in this act. All expenditures from the
fund shall be made in accordance with appropriation acts upon warrants of
the director of accounts and reports issued pursuant to vouchers approved
by the commissioner, or the commissioner's designee, for the purposes set
forth in this act.
(b) On or before the 10th of each month, the director of accounts and
reports shall transfer from the state general fund to the Kansas educator
liability fund interest earnings based on:
(1) The average daily balance of moneys in the Kansas educator
liability fund; and
(2) the net earnings rate of the pooled money investment portfolio for
the preceding month.

New Sec. 4. (a) Professional liability coverage provided under this
act shall automatically cover all full-time and part-time teachers and
student teachers. No premium, fee or other cost shall be charged to any
teacher or student teacher for such coverage.
(b) The expenses that may be paid from the Kansas educator liability
fund shall include the costs associated with the administration of the fund,
including, but not limited to, any insurance policy or policies purchased or
otherwise acquired by the commissioner and any contracts entered into by
the commissioner.
(c) Any insurance policy or policies purchased or otherwise acquired
by the commissioner and any contracts entered into by the commissioner
shall cover incidents that occurred on or after July 1, 2020.

New Sec. 5. In order to implement the provisions of this act, the
commissioner may:
(a) Establish the type or types of insurance and the insurance limits as
excess insurance coverage necessary to carry out the purposes of this act;
(b) purchase or otherwise acquire the insurance policy or policies
with the Kansas educator liability fund as the insured;
(c) establish the effective date for which insurance coverage will be
provided pursuant to this act;
(d) enter into contracts with insurance companies, financial
consultants, actuaries, auditors, investment managers, individual attorneys,
law firms and any other consultants or professionals the commissioner
deems necessary to effectuate the purposes of this act;
(e) establish the process for the administration of claims filed
pursuant to this act;
(f) annually recommend to the legislative budget committee the total
occurrence basis funding required to satisfy the liabilities arising under
this act; and
(g) on or before January 1, 2021, adopt rules and regulations
necessary to implement and administer the provisions of this act.

New Sec. 6. For purposes of this act, no teacher or student teacher
shall be considered a state employee.

New Sec. 7. If any provision of the educator protection act, or the
application of any such provision to any person or circumstance, is held
invalid, the invalidity shall not affect other provisions or applications of
the act that can be given effect without the invalid provision or
application, and, to this end, the provisions of the educator protection act
are severable.

Sec. 8. K.S.A. 75-4101 is hereby amended to read as follows: 75-
4101. (a) There is hereby created a committee on surety bonds and insurance, which shall consist of the state treasurer, the attorney general and the commissioner of insurance or their respective designees. The commissioner of insurance shall be the chairperson of the committee and the director of purchases or the director's designee shall be the ex officio secretary. The committee shall meet upon the call of the chairperson and at such other times as the committee shall determine but at least once each month on the second Monday in each month. Meetings shall be held in the office of the commissioner of insurance. The members of the committee shall serve without compensation. The secretary shall be the custodian of all property, records and proceedings of the committee. Except as provided in this section and K.S.A. 74-4925, 74-4927, 75-6501 through 75-6511 and 76-749, and amendments thereto, and section 5, and amendments thereto, no state agency shall purchase any insurance of any kind or nature or any surety bonds upon state officers or employees, except as provided in this act. Except as otherwise provided in this section, health care coverage and health care services of a health maintenance organization for state officers and employees designated under K.S.A. 75-6501(c), and amendments thereto, shall be provided in accordance with the provisions of K.S.A. 75-6501 through 75-6511, and amendments thereto.

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

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

(d) Any state educational institution as defined by K.S.A. 76-711, and amendments thereto, may purchase insurance of any kind or nature except employee health insurance. Such insurance shall be purchased on a competitively bid or competitively negotiated basis in accordance with procedures prescribed by the state board of regents. Such insurance may be purchased independent of the committee on surety bonds and insurance and without complying with K.S.A. 75-3738 through 75-3744, and amendments thereto.

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

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

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

(4) The state board of regents may adopt rules and regulations necessary to administer and implement the provisions of this section.
Sec. 9. K.S.A. 75-4101 is hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.