AN ACT concerning governmental response to certain emergencies; relating to the Kansas emergency management act; providing procedures for the declaration and extension of a state of disaster emergency; limiting powers granted to the governor during a state of disaster emergency; defining public health disasters and establishing special provisions therefor; creating the joint committee on emergency management and prescribing powers and duties; prescribing powers, duties and functions of the secretary of health and environment, city and county government and the board of education of each school district to control the spread of disease; establishing judicial review thereof; prescribing certain reporting requirements for the board of education of each school district, the state board of education and the Kansas state department of education; amending K.S.A. 48-904, 48-923, 48-933, 65-101, 65-119 and 65-126 and K.S.A. 2019 Supp. 48-925, as amended by section 4 of 2021 Senate Bill No. 14, and K.S.A. 2020 Supp. 48-924, as amended by section 2 of 2021 Senate Bill No. 14, 48-939, 48-949, 65-201 and 65-202 and repealing the existing sections; also repealing K.S.A. 2019 Supp. 48-925, as amended by section 5 of 2021 Senate Bill No. 14, and K.S.A. 2020 Supp. 48-925b.

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

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

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

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

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

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

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

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

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

or

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

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

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

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

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

(6) Any proclamation declaring or terminating a state of public health disaster emergency issued under this section shall indicate the nature of the public health disaster, the area or areas of the state threatened or affected by the disaster and the conditions that have brought about, or that make possible the termination of, the state of public health disaster emergency. When indicating the nature of the public health disaster, the proclamation shall include, but is not limited to, the name of the disease and any known means of transmission for such disease. Each such proclamation shall be
disseminated promptly by means calculated to bring its contents to the
attention of the general public and, unless the circumstances attendant
upon the disaster prevent such action, each such proclamation shall be
filed promptly with the division of emergency management, the office of
the secretary of state, the chief justice of the supreme court and each city
clerk, county clerk and board of education of a school district, as the case
may be, in the area or areas of the state to which such proclamation
applies.

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

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

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

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

(3) Not less than 24 hours after submitting the proposed executive order to the attorney general pursuant to paragraph (2), the governor shall submit such order to the joint committee on emergency management established by section 2, and amendments thereto. Within 24 hours of receipt of the proposed executive order, the chairperson of the joint committee shall call a meeting of the joint committee for the purposes of reviewing such order. The governor may issue the proposed executive order if such order is approved by an affirmative vote of a majority of the joint committee. The proposed executive order shall not be issued and shall be null and void if such order fails to receive an affirmative vote of a majority of the joint committee.

(4) Executive orders issued under this section:

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

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

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

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

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

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

(4) subject to any applicable requirements for compensation under K.S.A. 48-933, and amendments thereto, commandeer or utilize any private property if the governor finds such action necessary to cope with the disaster; and
(5) facilitate the cooperation and assistance of state and local
governmental agencies and officials.

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

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

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

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

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

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

(A) The board has consulted with such board's local health officer or
other local health officials regarding the governor's executive order;
(B) following such consultation, has determined that implementation
of the full scope of the provisions in the governor's executive order are not
necessary to protect the public health and safety of the county; and
(C) all other relevant findings to support the board's decision.

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

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

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

(A) The president of the senate;
(B) the vice president of the senate;
(C) the majority leader of the senate;
(D) the minority leader of the senate;
(E) one member of the senate appointed by the president of the senate;
(F) the speaker of the house of representatives;
(G) the speaker pro tem of the house of representatives;
(H) the majority leader of the house of representatives;
(I) the minority leader of the house of representatives; and
(J) one member of the house of representatives appointed by the speaker of the house of representatives.

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

(3) The president of the senate shall designate a senator member to be chairperson or vice chairperson, and the speaker of the house of representatives shall designate a representative member to be the chairperson or vice chairperson as provided in this paragraph. In odd-numbered years, the chairperson of the joint committee shall be the designated member of the senate and the vice chairperson shall be the designated member of the house of representatives from the convening of the regular session in that year until the convening of the regular session in the next ensuing year. In even-numbered years, the chairperson of the joint committee shall be the designated member of the house of representatives and the vice chairperson shall be the designated member from the senate from the convening of the regular session of that year until the convening of the regular session of the next ensuing year. The vice chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson.

(b) The joint committee shall meet at any time on call of the chairperson. Members of the joint committee shall receive compensation, travel expenses and subsistence expenses or allowances as provided in K.S.A. 75-3212, and amendments thereto, when attending meetings of such committee. Amounts paid under authority of this section shall be paid from appropriations for legislative expense and vouchers therefor shall be prepared by the director of legislative administrative services and approved by the chairperson or vice chairperson of the legislative coordinating council.

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

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

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

(f) In addition to other powers and duties authorized or prescribed by law or by the legislative coordinating council, the joint committee shall have the authority to require reports and testimony from the governor, or the governor's designee, the adjutant general, the state board of education, the secretary of health and environment and any other state or local official with information relevant to emergency management or the powers and duties of the joint committee.

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) A person aggrieved by an action taken or an order issued by the secretary of health and environment under K.S.A. 65-101(a)(5), and amendments thereto, may contest such action or order by requesting a hearing in the district court of the county in which the person resides or in the district court of Shawnee county, Kansas.

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

(b) A request for a hearing under this section shall not stay or enjoin the contested action, order or policy.

(c) (1) Upon receipt of a request for a hearing under this section, the district court shall conduct a hearing within 72 hours after receipt of the request.

(2) The district court may extend the time for a hearing upon a
showing by the contested governmental entity that extraordinary circumstances exist that justify the extension. In granting or denying the extension, the district court shall consider the rights of the affected individual, the protection of the public health, the severity of the health emergency and the availability, if necessary, of witnesses and evidence.

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

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

New Sec. 5. (a) (1) In the event of a state of public health disaster emergency declared by the governor pursuant to section 1, and amendments thereto, only the board of education of a school district shall have the authority to take any action, issue any order or adopt any policy that affects the operation of any school within the school district, including, but not limited to, any action, order or policy that:

(A) Closes or has the effect of closing any school within such school district;

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

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

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

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

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

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

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

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

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

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

Sec. 6. K.S.A. 48-904 is hereby amended to read as follows: 48-904.

As used in this the Kansas emergency management act:

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

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

(c) "division of emergency management" means the division of emergency management created in the office of the adjutant general by K.S.A. 48-905, and amendments thereto;

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

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

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

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

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

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

Sec. 7. K.S.A. 48-923 is hereby amended to read as follows: 48-923.

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

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

(b) (2) interfere with dissemination of news or comment on public affairs; but any communications facility or organization, including but not limited to radio and television stations, wire services and newspapers, may be required by the governor to transmit or print public service messages, information or instructions in connection with a declared state of disaster emergency or state of public health disaster emergency;

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

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

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

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

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

(3) seize, or authorize seizure of, any ammunition or suspend or limit the sale, dispensing or transportation of firearms or ammunition;

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

(5) take any action that gives preferential treatment for elective abortion as defined in K.S.A. 65-4a01, and amendments thereto, over any
other elective medical procedure or for an abortion provider over any
other business or commercial activity.
(c) The governor shall perform and exercise all functions, powers
and duties in conformity with the constitution and the bill of rights of the
state of Kansas.
Sec. 8. K.S.A. 2020 Supp. 48-924, as amended by section 2 of 2021
Senate Bill No. 14, is hereby amended to read as follows: 48-924. (a) The
governor shall be responsible for meeting the dangers to the state and
people presented by disasters.
(b) (1) Subject to the provisions of K.S.A. 2020 Supp. 48-924b and
section 1, and amendments thereto, the governor, upon finding that a
disaster has occurred or that occurrence or the threat thereof is imminent,
shall issue a proclamation declaring a state of disaster emergency.
(2) In addition to or instead of the proclamation authorized by K.S.A.
47-611, and amendments thereto, the governor, upon a finding or when
notified pursuant to K.S.A. 47-611, and amendments thereto, that a
quarantine or other regulations are necessary to prevent the spread among
domestic animals of any contagious or infectious disease, may issue a
proclamation declaring a state of disaster emergency. In addition to or
instead of any actions pursuant to the provisions of K.S.A. 2-2114, and
amendments thereto, the governor, upon a finding or when notified
pursuant to K.S.A. 2-2112 et seq., and amendments thereto, that a
quarantine or other regulations are necessary to prevent the spread among
plants, raw agricultural commodities, animal feed or processed food of any
contagious or infectious disease, may issue a proclamation declaring a
state of disaster emergency.
(3) The state of disaster emergency so declared under this section
shall continue until the governor finds that the threat or danger of disaster
has passed, or the disaster has been dealt with to the extent that emergency
conditions no longer exist. Upon making such findings the governor shall
terminate the state of disaster emergency by proclamation, but except as
provided in paragraph (4), no state of disaster emergency may continue for
longer than 15 days unless ratified by concurrent resolution of the
legislature, with the single exception that upon specific application by the
governor to the state finance council joint committee on emergency
management established by section 2, and amendments thereto, and an
affirmative vote of a majority of the legislative members thereof the joint
committee in accordance with the provisions of section 2, and amendments
thereto, a state of disaster emergency may be extended once for a specified
period not to exceed 30 days beyond such 15-day period.
(4) If the state of disaster emergency is proclaimed pursuant to
paragraph (2), the governor shall terminate the state of disaster emergency
by proclamation within 15 days, unless ratified by concurrent resolution of
the legislature, except that when the legislature is not in session or is adjourned during session for three or more days, and upon specific application by the governor to the state finance council joint committee on emergency management established by section 2, and amendments thereto, and an affirmative vote of a majority of the legislative members thereof, the joint committee in accordance with the provisions of section 2, and amendments thereto, a state of disaster emergency may be extended for a specified period not to exceed 30 days. The state finance council joint committee may authorize additional extensions of the state of disaster emergency by a unanimous vote of the legislative members thereof for specified periods not to exceed 30 days each. Such state of disaster emergency shall be terminated on the 15th day of the next regular legislative session following the initial date of the state of disaster emergency unless ratified by concurrent resolution of the legislature.

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

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

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

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

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

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

Sec. 9. K.S.A. 2019 Supp. 48-925, as amended by section 4 of 2021 Senate Bill No. 14, is hereby amended to read as follows: 48-925. (a) During any state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, the governor shall be commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement, embodied in appropriate executive orders or in rules and regulations of the adjutant general, but nothing herein shall restrict the authority of the governor to do so by orders issued at the time of a disaster.
(b) (1) Under the provisions of this act and for the implementation of this act, the governor may issue executive orders to exercise the powers conferred by subsection (c) that have the force and effect of law during the period of a state of disaster emergency declared under K.S.A. 48-924(b), and amendments thereto, or as provided in K.S.A. 2020 Supp. 48-924b, and amendments thereto. Within 24 hours of the issuance of any such order, the governor shall call a meeting of the state finance council for the purposes of reviewing such order.

(2) Such orders issued under this section:
(A) Shall be null and void after the period of a state of disaster emergency declared under K.S.A. 48-924(b), and amendments thereto, has ended. Such orders; and
(B) may be revoked at any time by concurrent resolution of the legislature.

(c) During a state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, in addition to any other powers conferred upon the governor by law and subject to the provisions of subsection (d), (e) and (f), the governor may:
(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders or rules and regulations. Modify the provisions of any order, policy or rule and regulation of any state agency which implements such statute, prescribing the procedures for conduct of state business if strict compliance with the provisions of such statute, order or rule and regulation would prevent, hinder or delay in any way the necessary action in coping with the disaster;
(2) utilize all available resources of the state government and of each political subdivision as reasonably necessary to cope with the disaster;
(3) transfer the supervision, personnel or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities;
(4) subject to any applicable requirements for compensation under K.S.A. 48-933, and amendments thereto, commandeer or utilize any private property if the governor finds such action necessary to cope with the disaster;
(5) direct and compel the evacuation of all or part of the population from any area of the state stricken or threatened by a disaster, if the governor deems this action necessary for the preservation of life or other disaster mitigation, response or recovery;
(6) prescribe routes, modes of transportation and destinations in connection with such evacuation;
(7) control ingress and egress of persons and animals to and from a disaster area, the movement of persons and animals within the area and the occupancy by persons and animals of premises therein;
(8) suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles;
(9) make provision for the availability and use of temporary emergency housing; and
(10) require and direct the cooperation and assistance of state and local governmental agencies and officials; and
(11) perform and exercise such other functions, powers and duties in conformity with the constitution and the bill of rights of the state of Kansas and with the statutes of the state of Kansas, except any regulatory statute specifically suspended under the authority of subsection (c)(1), as are necessary to promote and secure the safety and protection of the civilian population.
(d) The governor shall not have the power or authority to temporarily or permanently seize, or authorize seizure of, any ammunition or to suspend or limit the sale, dispensing or transportation of firearms or ammunition pursuant to subsection (c)(8) or any other executive authority.
(e) Notwithstanding any provision of this section to the contrary and pursuant to the governor's state of disaster emergency proclamation issued on May 26, 2020, the governor shall not have the power or authority to restrict businesses from operating or to restrict the movement or gathering of individuals. The provisions of this subsection shall expire on September 15, 2020.
(f) The governor shall not have the power under the provisions of the Kansas emergency management act or the provisions of any other law to alter or modify any provisions of the election laws of the state including, but not limited to, the method by which elections are conducted or the timing of such elections.
(g) (d) (1) The governor shall exercise the powers conferred by subsection (c) by issuance of executive orders under subsection (b).
(2) Each executive order issued pursuant to the authority granted by subsection (b) shall specify the provision or provisions of subsection (c) by specific reference to each paragraph of subsection (c) that confers the power under which the such order was issued. Each executive order issued pursuant to other legal authority shall specify the source of such authority.
(3) Each executive order issued pursuant to the authority granted by subsection (b) that modifies the provisions of any order, policy or rule and regulation shall specify the order, policy or rule and regulation being modified. Any such modification shall be consistent with the statutory section or sections implemented or interpreted by such order, policy or rule and regulation and the authority pursuant to which such order, policy or rule and regulation, or any part thereof, was adopted.
(4) If an executive order affects more than one county, such order shall be narrowly tailored to conditions in individual counties or provide
specific reasons such order is not narrowly tailored to such conditions.

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

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

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

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

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

Sec. 10. K.S.A. 48-933 is hereby amended to read as follows: 48-933.

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

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

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

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

(e) Nothing in this section:

(1) Authorizes compensation for intangible losses; or

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

Sec. 11. K.S.A. 2020 Supp. 48-939 is hereby amended to read as follows: 48-939. (a) A person who intentionally violates any provision of this the Kansas emergency management act, any rule and regulation adopted by the adjutant general under this the act or any lawful executive order or proclamation issued under authority of this the act whether pursuant to a proclamation declaring a state of disaster emergency under K.S.A. 48-924, and amendments thereto, a proclamation declaring a state of public health disaster emergency under section 1, and amendments thereto, or a declaration of a state of local disaster emergency under K.S.A. 48-932, and amendments thereto, may incur a civil penalty in an amount not to exceed $2,500 per violation. Each penalty may be assessed in addition to any other penalty provided by law.

(b) Violations of this section shall be enforced through an action brought under chapter 60 of the Kansas Statutes Annotated, and amendments thereto, by the attorney general or the county or district attorney in the county in which the violation took place. Civil penalties sued for and recovered by the county or district attorney shall be paid into the general fund of the county where the proceedings were instigated. Nothing in this section shall prohibit an action from being brought in each county in which a violation took place even if each action arises out of the same occurrence constituting the violation.

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

Sec. 12. K.S.A. 2020 Supp. 48-949 is hereby amended to read as follows: 48-949. As used in this the Kansas intrastate emergency mutual aid act:

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

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

(a) The secretary of health and environment shall exercise general 
supervision of the health of the people of the state and may:
(1) Where authorized by any other statute, require reports from 
appropriate persons relating to the health of the people of the state so a 
determination of the causes of sickness and death among the people of the 
state may be made through the use of these reports and other records;
(2) investigate the causes of disease, including especially, epidemics 
and endemics, the causes of mortality and effects of locality, employment, 
conditions, food, water supply, habits and other circumstances affecting 
the health of the people of this state and the causes of sickness and death;
(3) advise other offices and agencies of government concerning 
location, drainage, water supply, disposal of excreta and heating and 
ventilation of public buildings;
(4) make sanitary inspection and survey of such places and localities 
as the secretary deems advisable;
(5) except as provided in subsections (c), (d) and (e), issue orders to 
take action to prevent the introduction of infectious or contagious disease 
into this state and to prevent the spread of infectious or contagious disease 
within this state;
(6) provide public health outreach services to the people of the state, 
including educational and other activities designed to increase the 
individual's awareness and appropriate use of public and other preventive 
health services.
(b) The secretary of health and environment may adopt rules and 
regulations necessary to carry out the provisions of paragraphs (1) through 
(6), inclusive, of subsection (a) subsection (a)(1) through (6). In addition 
to other remedies provided by law, the secretary is authorized to apply to 
the district court, and such court shall have jurisdiction upon a hearing and
for cause shown to grant a temporary or permanent injunction to compel compliance with such rules and regulations.

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

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

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

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

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

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

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

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

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

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

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

Sec. 14. K.S.A. 65-119 is hereby amended to read as follows: 65-119.

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

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

Sec. 15. K.S.A. 65-126 is hereby amended to read as follows: 65-126.
(a) Whenever the county or joint board of health or the local health officer
neglects to properly isolate and quarantine infectious or contagious
diseases and persons afflicted with or exposed to such diseases as may be
necessary to prevent the spread thereof, the secretary of health and
environment may quarantine any area in which any of these diseases may
show a tendency to become epidemic.

(b) This section shall not apply to any school district or school within
any such area during any state of public health disaster emergency
declared pursuant to section 1, and amendments thereto.

Sec. 16. K.S.A. 2020 Supp. 65-201 is hereby amended to read as
follows: 65-201. (a) The board of county commissioners of each county
shall act as the county board of health for the county. Each county board
shall appoint a person licensed to practice medicine and surgery,
preference being given to persons who have training in public health, who
shall serve as the local health officer and who shall act in an advisory
capacity to the county board of health. The appointing authority of city-
county, county or multicounty health units with less than 100,000
population may appoint a qualified local health program administrator as
the local health officer if a person licensed to practice medicine and
surgery or person licensed to practice dentistry is designated as a
consultant to direct the administrator on program and related medical and
professional matters. The local health officer or local health program
administrator shall hold office at the pleasure of the board.
(b) (1) Any order issued by the local health officer, including orders
issued as a result of an executive order of the governor, may shall be
reviewed, amended or revoked by the board of county commissioners of
the county affected by such order at a meeting of the board. Any order
reviewed or amended by the board shall include an expiration date set by
the board and may be amended or revoked at an earlier date by a majority
vote of the board. Any meeting of county government discussing such
order, including any hearing by a board of county commissioners under
paragraph (2), shall be open to the public in accordance with the open
meetings act, K.S.A. 75-4317 et seq., and amendments thereto, and may be
conducted by electronic audio-visual communication when necessary to
secure the health and safety of the public and county government officials
and employees.
(2) Upon request by a person aggrieved by an order issued by a local
health officer, the board of county commissioners of the county affected by
such order shall conduct a hearing within 72 hours after receipt of such
request for the purposes of reviewing, amending or revoking such order as
provided by paragraph (1).
(3) Any person aggrieved by a decision of a board of county
commissioners under paragraph (2) may request a hearing in a district
court pursuant to section 4, and amendments thereto.
(4) Any order issued under this subsection shall be provided to the
secretary of health and environment.
(c) The board of county commissioners in any county having a
population of less than 15,000 may contract with the governing body of
any hospital located in such county for the purpose of authorizing such
governing body of the hospital to supply services to a county board of
health.
Sec. 17. K.S.A. 2020 Supp. 65-202 is hereby amended to read as
follows: 65-202. (a) (1) The local health officer in each county throughout
the state, immediately after such officer's appointment, shall take the same
oath of office prescribed by law for the county officers, shall give bond of
$500 conditioned for the faithful performance of the officer's duties, shall
keep an accurate record of all the transactions of such office, shall turn
over to the successor in office or to the county or joint board of health
selecting such officer, on the expiration of such officer's term of office, all
records, documents and other articles belonging to the office and shall
faithfully account to the board of county commissioners and to the county
and state for all moneys coming into the office. Such officer shall notify
the secretary of health and environment of such officer's appointment and
qualification, and provide the secretary with such officer's contact information.

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

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

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

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

(3) A local health officer shall not issue an order that:

(A) Substantially burdens or inhibits the gathering or movement of individuals or operation of any religious, civic, business or commercial activity, whether for-profit or not-for-profit, unless such order includes justification of the accepted scientific reasons for such order and how such order accomplishes remediation of such infectious or contagious disease;
(B) burdens or inhibits the operation of any religious gathering or activity; or
(C) has the effect of limiting travel between counties, except that the authority to issue an order under K.S.A. 65-129b, and amendments thereto, requiring an individual or group of individuals to go to and remain in places of isolation or quarantine shall not be limited by this
(4) A local health officer may issue non-binding guidance and information for the conduct of gatherings or activities described in paragraph (3).

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

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

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


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