

Kansas Statutes

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Chapter 48: Militia, Defense And Public Safety

Article 9: Emergency Preparedness For Disasters

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48-901:

History: L. 1949, ch. 303, § 1; Repealed, L. 1951, ch. 323, § 18; April 5.

48-902:

History: L. 1951, ch. 323, § 1; Repealed, L. 1955, ch. 263, § 14; July 1.

48-903:

History: L. 1951, ch. 323, § 2; L. 1955, ch. 263, § 1; L. 1965, ch. 337, § 1; Repealed, L. 1975, ch. 283, § 32; April 11.

48-904: Definitions. As used in this 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, contagious or infectious disease, air contamination, blight, drought, infestation, explosion, riot, terrorism or hostile military or paramilitary action;

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

(f) "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;

(g) "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

(h) "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.

History: L. 1951, ch. 323, § 3; L. 1955, ch. 263, § 2; L. 1975, ch. 283, § 1; L. 1980, ch. 158, § 1; L. 1994, ch. 248, § 2; L. 2001, ch. 163, § 10; L. 2002, ch. 83, § 1; July 1.

48-905:

History: L. 1951, ch. 323, § 4; L. 1955, ch. 263, § 3; L. 1975, ch. 283, § 2; Repealed, L. 1994, ch. 248, § 37; July 1.

48-905a: Division of emergency management, establishment. (a) The division of emergency preparedness within the office of the adjutant general is hereby abolished and there is hereby established within the office of the adjutant general a division of emergency management. To the extent provided in this act, all of the powers, duties and functions of such division of emergency preparedness are hereby transferred to and conferred and imposed upon the division of emergency management. The division of emergency management and the powers, duties and functions thereof shall be administered, by the adjutant general, who shall be the chief administrative officer thereof, under the supervision of the governor.

(b) Whenever the division of emergency preparedness within the office of the adjutant general, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the division of emergency management.

(c) The division of emergency management shall be a continuation of the division of emergency preparedness within the office of the adjutant general as the same existed prior to the effective date of this act.

History: L. 1994, ch. 248, § 1; July 1.

48-906:

History: L. 1951, ch. 323, § 5; Repealed, L. 1955, ch. 263, § 14; July 1.

48-907: Powers and duties of adjutant general. For the purposes of administering the division of emergency management and the powers, duties and functions thereof, the adjutant general shall have the following powers and duties:

(a) To adopt, amend and repeal rules and regulations;

(b) to cooperate with the advisory commission to the council of national defense through its division of state and local cooperation, or with any similar federal agencies hereafter created, and with any departments or other federal agencies engaged in defense or emergency management activities;

(c) to cooperate with emergency management agencies or councils and similar organizations of other states;

(d) to cooperate with county, city and interjurisdictional disaster agencies;

(e) to supervise and direct investigations, and report to the governor with recommendations for legislation or other appropriate action as the adjutant general deems necessary, with respect to any type of activity or matter of public concern or welfare insofar as the same is or may be related to emergency management;

(f) to appoint committees to aid the adjutant general in the discharge of the powers and duties conferred by this act;

(g) to require and direct the cooperation and assistance of state and local governmental agencies and officials;

(h) to serve as the chief administrative officer of the division of emergency management and the state resources administrator; and

(i) to do all acts and things, not inconsistent with law, for the furtherance of emergency management activities.

History: L. 1951, ch. 323, § 6; L. 1955, ch. 263, § 4; L. 1965, ch. 337, § 2; L. 1975, ch. 283, § 21; L. 1994, ch. 248, § 3; July 1.

48-908:

History: L. 1951, ch. 323, § 7; L. 1955, ch. 263, § 5; Repealed, L. 1975, ch. 283, § 32; April 11.

48-909:

History: L. 1951, ch. 323, § 8; L. 1955, ch. 263, § 6; L. 1957, ch. 308, § 1; Repealed, L. 1975, ch. 283, § 32; April 11.

48-910:

History: L. 1951, ch. 323, § 9; L. 1955, ch. 263, § 7; Repealed, L. 1975, ch. 283, § 32; April 11.

48-911: Mobile support units; duties of adjutant general. The adjutant general, at the request of the governor, is authorized to create and establish such number of mobile support units as may be necessary to reinforce the emergency management activities of county, city and interjurisdictional disaster agencies in stricken areas and with due consideration of the plans of the federal government and of other states. The adjutant general shall appoint a commander for each such unit who shall have primary responsibility for the organization, administration and operation of such unit for such purposes. Mobile support units shall be called to duty upon orders of the adjutant general, with the approval of the governor, and shall perform their functions in any part of the state or in other states upon the conditions authorized under the provisions of this act.

History: L. 1951, ch. 323, § 10; L. 1955, ch. 263, § 8; L. 1975, ch. 283, § 22; L. 1994, ch. 248, § 4; July 1.

48-912: Investigations and surveys; testimony and evidence; fees and mileage of witnesses. For the purpose of making surveys and investigations and obtaining information under this act, the adjutant general may compel by subpoena the attendance of witnesses, and the production of books, papers, records and documents of individuals, firms, associations and corporations; and all officers, boards, commissions and departments of the state, and the political subdivisions thereof, having information with respect thereto, shall cooperate with and assist him or her in making such investigations and surveys. In case of disobedience to a subpoena of the adjutant general, the adjutant general may invoke the aid of any court of competent jurisdiction in requiring the attendance and testimony of witnesses and the production of documentary evidence. Each witness who appears before the adjutant general by his or her order, other than a state officer or employee, shall receive for his or her attendance the fees and mileage provided for witnesses in civil actions in courts of record, which shall be audited and paid upon presentation of proper vouchers certified to by such witness and approved by the adjutant general.

History: L. 1951, ch. 323, § 11; L. 1955, ch. 263, § 9; L. 1975, ch. 283, § 23; April 11.

48-913:

History: L. 1951, ch. 323, § 12; L. 1955, ch. 263, § 10; Repealed, L. 1975, ch. 283, § 32; April 11.

48-914: Lease, sale or loan of state property to federal or local governments; transfer of personnel; cities and counties authorized to contract. Notwithstanding any inconsistent provision of law:

(a) Whenever the adjutant general, with approval of the governor, deems it to be in the public interest, he or she may: (1) Authorize any department or agency of the state to lease or lend, on such terms and conditions as he or she may deem necessary to promote the public welfare and protect the interests of the state, any real or personal property of the state government to the president, the heads of the armed forces, or to the civil defense agency of the United States.

(2) Enter into a contract on behalf of the state for the lease or loan to any political subdivision of the state on such terms and conditions as he or she may deem necessary to promote the public welfare and protect the interests of the state, of any real or personal property of the state or under the jurisdiction or control of the state government, or the temporary transfer or employment of personnel of the state government to or by any political subdivision of the state.

(3) Enter into a contract on behalf of the state to provide by lease or purchase to any individual in this state, any services, materials or equipment of the state, or under the jurisdiction or control of the state, for the purpose of alleviating hardships and distress of such individual arising from a disaster, and receive reimbursement on behalf of the state in whole or in part for such services, materials or equipment.

(b) The mayor of any city or the chairman of the board of county commissioners of any county of the state may: (1) Enter into such contract or lease with the state, or accept any such loan, or

employ such personnel, and such political subdivision may equip, maintain, utilize and operate any such property and employ necessary personnel therefor in accordance with the purposes for which such contract is executed.

(2) Do all things and perform any and all acts which he or she may deem necessary to effectuate the purpose for which such contract was entered into.

History: L. 1951, ch. 323, § 13; L. 1955, ch. 263, § 11; L. 1975, ch. 283, § 24; April 11.

48-915: Immunity from liability of the state, local governments and certain individuals; Kansas tort claims act, applicability. (a) Neither the state nor any political subdivision of the state, nor the agents or representatives of the state or any political subdivision thereof, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer worker, or member of any agency, engaged in emergency management activities. The foregoing shall not affect the right of any person to receive benefits or compensation to which such person otherwise may be entitled under the workers compensation law or any pension law or any act of congress.

(b) Whenever a proclamation is issued declaring a state of disaster emergency pursuant to [K.S.A. 48-924](#), and amendments thereto, neither the state nor any political subdivision of the state nor, except in cases of willful misconduct, gross negligence or bad faith, the employees, agents, or representatives of the state or any political subdivision thereof, nor any volunteer worker, or member of any agency, engaged in any emergency management activities, complying with or reasonably attempting to comply with this act, or any proclamation, order, rule and regulation promulgated pursuant to the provisions of this act, or pursuant to any ordinance relating to blackout or other precautionary measures enacted by any political subdivision of the state, shall be liable for the death of or injury to persons, or for damage to property, as a result of any such activity performed during the existence of such state of disaster emergency or other such state of emergency.

(c) Any member of a regional medical emergency response team created under the provisions of [K.S.A. 48-928](#), and amendments thereto, shall be deemed a state employee under the Kansas tort claims act, [K.S.A. 75-6101](#), *et seq.*, and amendments thereto.

History: L. 1951, ch. 323, § 14; L. 1975, ch. 283, § 25; L. 1994, ch. 248, § 5; L. 2002, ch. 149, § 1; July 1.

48-916: Authority to accept services, gifts, grants and loans. (a) Whenever the federal government or any agency or officer thereof offers to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials or funds by way of gift, grant or loan, for purposes of emergency management, the state, acting through the governor or such political subdivision, acting with the consent of the governor and through its executive officer or governing body, may accept such offer and upon such acceptance the governor of the state or executive officer or governing body of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials or funds on behalf of the state or such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

(b) Whenever any person, firm or corporation offers to the state or to any political subdivision thereof, services, equipment, supplies, materials or funds by way of gift, grant or loan, for purpose of emergency management, the state, acting through the governor, or such political subdivision, acting through its executive officer or governing body, may accept such offer and upon such acceptance the governor of the state or executive officer or governing body of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials or funds on behalf of the state or such political subdivision, subject to the terms of the offer.

(c) If an agreement pursuant to which an interjurisdictional disaster agency is established and functions so provides, such agency may accept, administer, utilize and expend grants, gifts or other assistance in the same manner provided for the state and political subdivisions in subsections (a) and (b).

History: L. 1951, ch. 323, § 15; L. 1975, ch. 283, § 26; L. 1994, ch. 248, § 6; July 1.

48-917: Persons ineligible for employment. No person shall be employed by any emergency management organization established under this act who advocates a change by force or violence in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States.

History: L. 1951, ch. 323, § 16; L. 1975, ch. 283, § 27; L. 1994, ch. 248, § 7; July 1.

48-918:

History: L. 1951, ch. 323, § 17; Repealed, L. 1955, ch. 263, § 14; July 1.

48-919: Employees, division of emergency management; expenses. The adjutant general, as the chief administrative officer of the division of emergency management, is hereby authorized to employ an emergency management programs' administrator, a planning officer and such technical, professional, clerical, stenographic and other personnel and may make such expenditures within the appropriation therefor, or from other funds made available to the adjutant general for the purpose of emergency management, as may be necessary to carry out the purposes of this act. Such employees shall be within the classified service and their compensation shall be determined as provided by the Kansas civil service act. The adjutant general and such employees may be reimbursed for their actual and necessary travel and other expenses incurred in connection with their official duties under this act, subject to the applicable provisions of article 32 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

History: L. 1955, ch. 263, § 12; L. 1959, ch. 234, § 1; L. 1975, ch. 283, § 28; L. 1994, ch. 248, § 8; July 1.

48-920: Title of act. This act and the act of which this section is amendatory may be cited as the Kansas emergency management act.

History: L. 1955, ch. 263, § 13; L. 1975, ch. 283, § 29; L. 1994, ch. 248, § 9; July 1.

48-921:

History: L. 1955, ch. 262, § 1; Repealed, L. 1975, ch. 283, § 32; April 11.

48-922: Purchase of accident insurance for volunteer workers by cities; coverage; immunity; definitions. (a) The governing body of any city which has a disaster agency pursuant to [K.S.A. 48-929](#), and amendments thereto, or is participating in an interjurisdictional arrangement under an interjurisdictional disaster agency pursuant to [K.S.A. 48-930](#), and amendments thereto, may purchase accident insurance for the protection of those volunteer workers engaged in emergency management activities sustaining injury or death by accidental means as a result of such emergency management activities as the volunteer worker may be called on to perform when called into services in such capacity. The governing body of such city may purchase accident insurance from private insurance companies in such amounts and for such coverages as the city governing body may deem necessary and pay for such insurance out of the emergency management fund. The purchase of such insurance shall not constitute a waiver of the immunity of the city from any action or suit provided for in [K.S.A. 48-915](#), and amendments thereto.

(b) As used in this section: (1) "Volunteer workers" means those natural persons who volunteer their services for the purpose of engaging in emergency management activities under a disaster agency established and maintained under [K.S.A. 48-929](#) or 48-930, and amendments thereto; and

(2) "injury" means and includes all injuries to a volunteer worker received by accidental means while such volunteer worker is actually engaged in performing duties arising out of and in the course of such emergency management activities.

History: L. 1955, ch. 262, § 2; L. 1975, ch. 283, § 30; L. 1994, ch. 248, § 10; July 1.

48-923: Limitations on effect of act. Nothing in the emergency management act shall be construed to:

(a) 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) 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;

(c) affect, other than during a declared state of 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

(d) 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.

History: L. 1975, ch. 283, § 3; L. 1994, ch. 248, § 11; July 1.

48-924: Disasters; responsibilities of governor; state of disaster emergency. (a) The governor shall be responsible for meeting the dangers to the state and people presented by disasters.

(b) (1) 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 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 and an affirmative vote of a majority of the legislative members thereof, 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 and upon specific application by the governor to the state finance council and an affirmative vote of a majority of the legislative members thereof, a state of disaster emergency may be extended for a specified period not to exceed 30 days. The state finance council 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) 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.

(6) 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 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 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 (a). 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 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 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 or areas affected by the proclamation. Such proclamation shall be authority 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.

History: L. 1975, ch. 283, § 4; L. 1991, ch. 292, § 1; L. 1994, ch. 248, § 12; L. 2001, ch. 163, § 11; L. 2002, ch. 88, § 5; May 2.

48-924a: Extension of state of disaster emergency declared for counties experiencing severe weather-related disaster on May 4, 2007. In addition to the authority granted by subsection (a)(3) of [K.S.A. 48-924](#), and amendments thereto, the state of disaster emergency which was declared by the governor pursuant to [K.S.A. 48-924](#) by proclamation on May 4, 2007, for the counties of Kiowa, Barton, Stafford, Pratt, Edwards and Phillips as a result of the May 4, 2007, severe weather-related disaster in such counties, which was extended and continued in existence by the finance council on May 16, 2007, for the counties of Kiowa, Barton, Stafford, Pratt, Edwards and Phillips for an additional 30 days through June 18, 2007, and which was ratified and continued in effect for the county of Kiowa by the house concurrent resolution adopted by the house of representatives, the senate concurring therein, on May 22, 2007, for an additional period ending on October 31, 2007, may be further extended and continued in existence for the county of Kiowa for one or more additional periods after October 31, 2007, by the state finance council, by unanimous vote of all of the members of the council, acting on this matter which is hereby declared to be a matter of legislative delegation and subject to the guidelines prescribed by subsection (c) of [K.S.A. 75-3711c](#), and amendments thereto, except that such state of disaster emergency for the county of Kiowa shall not be extended and continued in effect after January 14, 2008.

History: L. 2007, ch. 202, § 3; May 31.

48-925: Powers of governor during state of disaster emergency; orders and proclamations, administered by adjutant general. (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) Under the provisions of this act and for the implementation thereof, the governor may issue orders and proclamations which shall have the force and effect of law during the period of a state of disaster emergency declared under subsection (b) of [K.S.A. 48-924](#), and amendments thereto, and which orders and proclamations shall be null and void thereafter unless ratified by concurrent resolution of the legislature. Such orders and proclamations 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, and in addition to any other powers conferred upon the governor by law, 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 of any state agency which implements such statute, if strict compliance with the provisions of such statute, order or rule and regulation would prevent, hinder or delay in any way 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;
- (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 as are necessary to promote and secure the safety and protection of the civilian population.

(d) The governor shall exercise the powers conferred by subsection (c) by issuance of orders under subsection (b). The adjutant general, subject to the direction of the governor, shall administer such orders.

History: L. 1975, ch. 283, § 5; L. 1994, ch. 248, § 13; L. 2001, ch. 163, § 12; L. 2008, ch. 97, § 2; July 1.

[48-926](#): State disaster emergency plan; rules and regulations. (a) The division of emergency management shall prepare and maintain a state disaster emergency plan, which may include provisions for:

- (1) Prevention and minimization of injury and damage caused by disaster;
- (2) prompt and effective response to disaster;
- (3) emergency relief;
- (4) identification of areas particularly vulnerable to disasters;

- (5) recommendations for zoning, building and other land-use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other emergency management measures designed to eliminate disasters or to reduce their impact;
 - (6) assistance to local officials in designing local and interjurisdictional disaster emergency plans;
 - (7) authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage or loss from disasters;
 - (8) preparation and distribution of a list of disaster emergency plans, training programs and other assistance available through federal, state and private assistance programs for the benefit of the state and the counties and cities thereof;
 - (9) organization of manpower and creation of chains of command;
 - (10) coordination of federal, state and local emergency management activities;
 - (11) utilizing the organization, personnel, equipment and resources of the Kansas wing of the civil air patrol; and
 - (12) such other matters as are necessary to accomplish the purposes of this act.
- (b) The state disaster emergency plan, or any part thereof, may be included in rules and regulations adopted by the adjutant general under this act or orders issued by the governor under subsection (b) of [K.S.A. 48-925](#), and amendments thereto.

History: L. 1975, ch. 283, § 6; L. 1994, ch. 248, § 14; July 1.

48-927: State resources management plan. The division of emergency management shall prepare a state resources management plan to include such economic controls as may be reasonably necessary to effectuate recovery from disasters. Such resources management plan, or any part thereof, may be placed in effect by incorporating the same in orders issued by the governor under subsection (b) of [K.S.A. 48-925](#), and amendments thereto.

History: L. 1975, ch. 283, § 7; L. 1994, ch. 248, § 15; July 1.

48-928: Duties of division of emergency management. In addition to other duties imposed under this act, the division of emergency management shall:

- (a) Determine the requirements of the state and the counties and cities thereof for food, clothing and other necessities in event of a disaster;
- (b) procure and distribute about the state, such supplies, medicines, materials and equipment which are deemed necessary for use during a disaster;

- (c) promulgate standards and requirements for local and interjurisdictional disaster emergency plans including adequate provisions for the rendering and receipt of mutual aid;
- (d) periodically examine or review and approve local and interjurisdictional disaster emergency plans which are in accordance with the standards and requirements promulgated therefor;
- (e) establish and operate training or public information programs relating to emergency management, and assist counties and cities, the disaster agencies of such counties or cities and interjurisdictional disaster agencies, in the establishment and operation of such programs;
- (f) make surveys of industries, resources and facilities within the state, both public and private, as are necessary to carry out the purposes of this act;
- (g) plan and make arrangements for the availability and use of any private facilities, services and property for emergency management activities and, if necessary and if in fact used, provide for payment for such use under terms and conditions agreed upon;
- (h) establish a register of persons with types of training and skills important in emergency management activities;
- (i) establish a register of mobile and construction equipment and temporary housing available for use in a disaster;
- (j) prepare drafts of orders or proclamations for the governor as necessary or appropriate in coping with disasters;
- (k) serve, for all those agencies which regulate any matter affecting the transportation of hazardous materials:
 - (1) As the coordinating and supervising state agency; and
 - (2) to provide continuing liaison between such state agencies;
- (l) establish an informational system under which state agencies shall notify the division of emergency management;
- (m) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this act and in implementing programs for disaster prevention, preparation response and recovery;
- (n) under the direction of the adjutant general, develop a regional emergency management system which includes the use of regional coordinators that provide training and preparation of state, county, city and interjurisdictional disaster agencies to prevent, respond to, mitigate and recover from emergency and disaster situations;
- (o) under the direction of the adjutant general, implement the use of an incident management system during emergency and disaster situations by all state, county, city and interjurisdictional disaster agencies which respond to such emergency or disaster situations;

(p) develop and administer a program to provide financial assistance to cities, counties or interjurisdictional disaster agencies for the development and implementation of a terrorism preparedness program. Such program shall provide criteria for receiving such financial assistance and such other conditions as the division may deem necessary; and

(q) develop, implement and administer, with the assistance and advice of the commission on emergency planning and response, a plan for regional emergency medical response teams.

History: L. 1975, ch. 283, § 8; L. 1980, ch. 158, § 2; L. 1994, ch. 248, § 16; L. 2002, ch. 83, § 2; L. 2002, ch. 149, § 2; July 1.

48-929: County and city disaster agencies; determination by governor; disaster emergency plans by county, city and interjurisdictional disaster agencies; duties of local officials. (a) Each county within this state shall establish and maintain a disaster agency responsible for emergency management and coordination of response to disasters or shall participate in an interjurisdictional arrangement for such purposes under an interjurisdictional disaster agency as provided in [K.S.A. 48-930](#), and amendments thereto. Except as otherwise provided in this act, each county or interjurisdictional disaster agency shall have jurisdiction over and serve all of each county included thereunder. No county which is included in an interjurisdictional arrangement under the jurisdiction of an interjurisdictional disaster agency pursuant to subsection (a) of [K.S.A. 48-930](#), and amendments thereto, shall establish or maintain a separate disaster agency for such county.

(b) The governor shall determine which cities need disaster agencies of their own and, upon such determination, shall require that each such city establish and maintain a disaster agency therefor. The governor shall make such determinations on the basis of each city's disaster vulnerability and capability of response related to population size and concentration. The disaster agency of a county shall cooperate with the disaster agency of any city located within such county, but shall not have jurisdiction within a city having its own disaster agency. The division of emergency management shall publish and keep current a list of cities which are required to have disaster agencies under this subsection.

(c) The mayor or other principal executive officer of each city required to have a disaster agency and the chairperson of the board of county commissioners of each county shall notify the division of emergency management of the manner in which such city or county is providing or securing disaster planning and emergency services, identify the person who heads the agency responsible for providing such services and furnish additional information relating thereto as the division of emergency management requires.

(d) In accordance with the standards and requirements for disaster emergency plans promulgated by the division of emergency management, each county, city and interjurisdictional disaster agency shall prepare and keep current a disaster emergency plan for the area under its jurisdiction, which has been approved after examination and periodic review by the division of emergency management.

(e) The county, city or interjurisdictional disaster agency, as the case may be, shall prepare and distribute to all appropriate officials in written form a clear and complete statement of the emergency responsibilities of all local agencies and officials and of the disaster chain of command.

(f) Any county and any city which is required to establish a disaster agency under this section, may designate the local council of defense, which was established in accordance with [K.S.A. 48-909](#), and amendments thereto, for such county or city and which was in existence on the day immediately preceding the effective date of this act, as such county or city disaster agency under this section.

(g) When the corporate limits of any city extend into two counties, and the city has not been required to establish a disaster agency in accordance with this section and an interjurisdictional agency including such counties has not been established pursuant to [K.S.A. 48-930](#), and amendments thereto, the governing body of such city may petition the board of county commissioners of the two counties to enter into an agreement which designates one of the counties as the disaster agency for such city for the purposes specified in this act. The board of county commissioners of the two counties shall consult and meet with the governing body of the affected city prior to such agreement being approved. If an agreement has not been entered into within one year after the city's petition, the city or either of the counties may petition and the adjutant general shall designate one of the counties as the disaster agency for the city. The adjutant general's designation shall be final and binding on the city and counties until such designation is revised by the adjutant general or by agreement of the two counties in accordance with the procedures in this section. Any agreement entered into in accordance with this section shall meet the requirements of [K.S.A. 12-2901](#) et seq., and amendments thereto, the interlocal cooperation act.

History: L. 1975, ch. 283, § 9; L. 1994, ch. 248, § 17; July 1.

[48-930](#): Interjurisdictional disaster agencies; finding and order by governor; disaster emergency plans; interjurisdictional agreements between counties; interstate mutual aid organizations, agreements, disapproval by legislature. (a) If the governor finds that two or more adjoining counties would be served better by an interjurisdictional disaster agency than by maintaining separate disaster agencies and services, the governor shall order the establishment of an interjurisdictional disaster agency which is adequate to plan for, prevent or respond to disasters in that area and direct steps to be taken as necessary, including the creation of an interjurisdictional relationship and an interjurisdictional disaster emergency plan which provide for mutual aid or an area organization for emergency management. A copy of such order shall be given to the chairperson of the board of county commissioners of each county affected by such order and to the mayor or other principal executive officer of each city located within any such county, and such counties and cities shall act in accordance with such order. Any interjurisdictional agreement entered into by two or more counties which are ordered to establish an interjurisdictional disaster agency under this subsection, may designate a local council of defense, which was established in accordance with [K.S.A. 48-909](#), and amendments thereto, for one of such counties and which was in existence on the day immediately preceding the effective date of this act, as such interjurisdictional disaster agency. Each interjurisdictional disaster agency shall cooperate with the disaster agency of any city located within any county under the jurisdiction of such interjurisdictional disaster agency, but shall not have jurisdiction within such cities having disaster agencies. A finding by the governor pursuant to this subsection shall be based on one or more factors related to the difficulty of maintaining an efficient and effective emergency management system on a single-jurisdiction basis, such as:

(1) Small or sparse population;

(2) limitations on public financial resources severe enough to make maintenance of a separate disaster agency and services unreasonably burdensome;

(3) unusual vulnerability to disaster as evidenced by a past history of disasters, topographical features, drainage characteristics, disaster potential and presence of disaster-prone facilities or operations;

(4) the interrelated character of the counties in a multi-county area; or

(5) other relevant conditions or circumstances.

(b) Two or more counties, which are not under the jurisdiction of an interjurisdictional disaster agency pursuant to subsection (a), may be required by the governor, by an order issued in the manner prescribed in subsection (a), to participate and enter into an interjurisdictional agreement or arrangement without requiring the establishment and maintenance of such a disaster agency therefor, if the governor finds that:

(1) Such counties, or the cities situated therein, have equipment, supplies and forces which are necessary to provide mutual aid on a regional basis; and

(2) such counties have not made adequate provisions in their disaster emergency plans for the rendering and receipt of mutual aid for the emergency management needs of the entire region.

(c) If the governor finds that it would be desirable to establish an interstate mutual aid organization or an area organization for disaster for an area including territory in this state and any other state or states, the governor shall take such action as is necessary to achieve such objective. If this state has enacted the interstate civil defense and disaster compact and this action is taken with a jurisdiction which has also enacted the interstate civil defense and disaster compact, any resulting agreement with such jurisdiction may be considered a supplemental agreement pursuant to article VI of that compact.

(d) If this state, or any other jurisdiction with which the governor proposes to cooperate pursuant to subsection (c), has not enacted the interstate civil defense and disaster compact, the governor may negotiate a special agreement with such jurisdiction. Any such agreement, if sufficient authority for the making thereof does not otherwise exist, may become effective only if its text has been submitted to the legislature by filing a copy thereof with the legislative coordinating council, and neither house of the legislature has disapproved it by resolution during the next regular session of the legislature after such submission.

History: L. 1975, ch. 283, § 10; L. 1994, ch. 248, § 18; July 1.

48-931: Development and revision of state, local and interjurisdictional disaster plans; advice and assistance of local government, business and civic leaders. (a) The division of emergency management shall take an integral part in the development and revision of local and interjurisdictional disaster emergency plans prepared under [K.S.A. 48-929](#) and 48-930, and amendments thereto. To this end, the division of emergency management shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to counties and cities,

their disaster agencies and interjurisdictional disaster agencies. These personnel shall consult with such counties, cities and disaster agencies on a regularly scheduled basis and shall make field examinations of the areas, circumstances and conditions to which particular local or interjurisdictional disaster emergency plans are intended to apply. The division of emergency management may require revisions of such plans on the basis of such examinations.

(b) In preparing and revising the state disaster emergency plan, the division of emergency management shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic and volunteer organizations and community leaders. In advising county, city and interjurisdictional disaster agencies which are developing or revising disaster emergency plans, the division of emergency management shall encourage such disaster agencies also to seek such advice and assistance.

History: L. 1975, ch. 283, § 11; L. 1994, ch. 248, § 19; July 1.

48-932: States of local disaster emergency; effect; powers and duties of county and city officials.

(a) A state of local disaster emergency may be declared by the chairman of the board of county commissioners of any county, or by the mayor or other principal executive officer of each city of this state having a disaster emergency plan, upon a finding by such officer that a disaster has occurred or the threat thereof is imminent within such county or city. No state of local disaster emergency shall be continued for a period in excess of seven (7) days or renewed, except with the consent of the board of county commissioners of such county or the governing body of such city, as the case may be. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed promptly with the county clerk or city clerk, as the case may be.

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

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

(d) No interjurisdictional disaster agency or any official thereof may declare a local disaster emergency, unless expressly authorized by the agreement pursuant to which the agency functions. However, an interjurisdictional disaster agency shall provide aid and services in accordance with the agreement pursuant to which it functions in the case of a state of local disaster emergency declared under subsection (a).

History: L. 1975, ch. 283, § 12; April 11.

48-933: Duty of individuals during disaster emergencies; compensation for loss of property, exceptions; claims procedure. (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, 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 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.

History: L. 1975, ch. 283, § 13; L. 1994, ch. 248, § 20; July 1.

48-934: Duties and immunities of law enforcement, military and other authorized personnel. Law enforcement officers, military personnel, or other persons authorized to assist them, while engaged in maintaining or restoring the public peace or safety or in the protection of life or property during a state of disaster emergency proclaimed under [K.S.A. 48-924](#), shall have all powers, duties and immunities of peace officers of the state of Kansas in addition to all powers, duties and immunities now otherwise provided by law and shall be immune from civil and criminal liability for

acts reasonably done by them in the performance of their duties so long as they act without malice and without the use of excessive or unreasonable force. All such personnel shall have the authority to enforce any and all ordinances of any municipality within an area affected by disaster as indicated in the proclamation of a state disaster emergency under [K.S.A. 48-924](#), and for such purpose, all such personnel shall be considered to be authorized officers of said municipality.

History: L. 1975, ch. 283, § 14; April 11.

[48-935](#): Force and effect of municipal ordinances during disaster emergencies. Any ordinance of any municipality authorizing the mayor or other persons to act during a state of disaster emergency proclaimed under [K.S.A. 48-924](#) or during a state of local disaster emergency declared under [K.S.A. 48-932](#), shall be in full force and effect except for the provisions of such ordinance which are in conflict with any provision of this act or of the state disaster emergency plan or of the applicable local and interjurisdictional disaster emergency plans in which case such conflicting provisions of such ordinance shall be null and void for all purposes.

History: L. 1975, ch. 283, § 15; April 11.

[48-936](#): Immunity from liability for persons in control of certain premises. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part of such real estate or premises for the purpose of sheltering persons during an actual or impending, nuclear practice attack or disaster, together with his or her successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises, or the loss of or damage to the property of such person, at any time such real estate or premises are actually used for such purpose.

History: L. 1975, ch. 283, § 16; April 11.

[48-937](#): Communications systems during disasters; recommendations to governor. The division of emergency management shall ascertain what means exist for rapid and efficient communications during a disaster. The division of emergency management shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive state or state and federal telecommunications or other communications system which may be established for purposes of emergency management. In studying the character and feasibility of any such system or its several parts, the division of emergency management shall consult thereon with the secretary of administration and evaluate the possibility of the multi-purpose use of such a system for general state and local government purposes. The division of emergency management shall make recommendations regarding such communications systems to the governor as appropriate.

History: L. 1975, ch. 283, § 17; L. 1994, ch. 248, § 21; July 1.

48-938: Federal grants to individuals and families; powers and duties of governor; amount of state share; maximum amount, determination. Whenever the president of the United States, pursuant to the federal Robert T. Stafford disaster relief and emergency assistance act and the federal disaster relief and emergency assistance amendments of 1988, has declared a major disaster to exist in this state, the governor is hereby authorized to apply for, accept and disburse grants from the federal government pursuant to section 411 of the federal disaster relief and emergency assistance amendments of 1988, in order to meet the disaster-related necessary expenses or serious needs of individuals or families in this state who are adversely affected by such major disaster which cannot be met adequately from other means. In order to implement and administer such grant program and to make financial grants thereunder, the governor is hereby authorized to enter into an agreement with the federal government, or any officer or agency thereof, pledging the state to provide the state share of such financial grants, subject to the allocation of funds for such purpose by the state finance council from the state emergency fund, as provided in [K.S.A. 75-3713](#) and amendments thereto. The state share of any grant made pursuant to this section to meet disaster-related necessary expenses and serious needs of individuals and families in this state shall not exceed 25% of the actual cost of such expenses and needs as authorized by section 411 of the federal disaster relief and emergency assistance amendments of 1988 and in any event shall not exceed, in the aggregate to any one individual or family with respect to any one major disaster, the maximum amount determined for the current fiscal year under this section. The maximum amount of the state share of such financial grants under this section for the fiscal year ending June 30, 1990, shall be \$2,500. The maximum amount for each fiscal year thereafter shall be determined by the adjutant general on or before July 1 of such fiscal year and shall be equal to the maximum amount for the preceding fiscal year plus an additional amount determined by the adjutant general to be proportionally equal to the increase, if any, by which the consumer price index for all urban consumers published by the United States department of labor for the preceding calendar year, exceeds that index for the second preceding calendar year.

History: L. 1975, ch. 283, § 18; L. 1989, ch. 158, § 1; July 1.

48-939: Penalty for violation of act or rules and regulations, orders or proclamations thereunder. The knowing and willful violation of any provision of this act or any rule and regulation adopted by the adjutant general under this act or any lawful order or proclamation issued under authority of this act whether pursuant to a proclamation declaring a state of disaster emergency under [K.S.A. 48-924](#) or a declaration of a state of local disaster emergency under [K.S.A. 48-932](#), shall constitute a class A misdemeanor and any person convicted of such violation shall be punished as provided by law therefor.

History: L. 1975, ch. 283, § 20; April 11.

48-940: Title of act. This act shall be known and may be cited as the Kansas nuclear safety emergency management act.

History: L. 1993, ch. 113, § 1; L. 1994, ch. 248, § 22; July 1.

48-941: Definitions. As used in this act:

(a) "Emergency planning zone" means an area surrounding a nuclear facility for which planning is needed to assure that prompt and effective actions can be taken to protect the public in the event of an accident at the facility. Each nuclear facility shall have, as a minimum a plume exposure pathway planning zone consisting of an area of approximately 10 miles radius surrounding the facility and an ingestion exposure pathway planning zone consisting of an area approximately 50 miles in radius surrounding the facility.

(b) "Emergency management" has the meaning ascribed thereto by [K.S.A. 48-904](#), and amendments thereto.

(c) "Nuclear facility" means any facility which utilizes nuclear energy to produce electricity and which has all or any part of an emergency planning zone within Kansas.

(d) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, or any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing.

History: L. 1993, ch. 113, § 2; L. 1994, ch. 248, § 23; July 1.

48-942: Costs of emergency management plans and programs; fees. (a) Persons engaged in the production of electricity through the utilization of nuclear energy at a nuclear facility shall pay fees to the adjutant general to cover the costs incurred by state and local government agencies in establishing and maintaining appropriate emergency management plans and programs for an accident at a nuclear facility, including the costs of administering this act.

(b) Fees collected under the provisions of this act shall be used exclusively to fund those state and local government activities approved as necessary by the adjutant general to develop, maintain and implement appropriate plans and programs necessary for management for an accident at a nuclear facility and for administration of this act.

(c) State agencies and local governments of Kansas incurring expenses attributable to developing and maintaining plans and programs to meet responsibilities in the event of an accident at a nuclear facility may apply to the adjutant general for payment for those expenses. Upon approval by the adjutant general of emergency management budgets submitted by state and local government agencies therefor, the adjutant general shall pay or reimburse such expenses or may disburse moneys in advance of such expenses from fees collected pursuant to this act.

(d) The adjutant general shall remit all moneys received from fees fixed and collected pursuant to this act to the state treasurer in accordance with the provisions of [K.S.A. 75-4215](#), and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the nuclear safety emergency management fee fund which is hereby established in the state treasury. The adjutant general shall administer the nuclear safety emergency management fee fund. All expenditures from the nuclear safety emergency management fee fund shall be in accordance with the provisions of appropriation acts. All moneys in the nuclear safety

emergency preparedness fee fund and all liabilities of such fund on the day preceding the effective date of this act shall be transferred to the nuclear safety emergency management fee fund. The nuclear safety emergency preparedness fee fund is hereby abolished.

(e) When the total of all fees collected under this act during any fiscal year exceeds the total expenditures from the nuclear safety emergency management fee fund under this act from appropriations for that fiscal year, the amount of receipts that exceeds such expenditures shall be credited to the persons who were assessed such fees for that fiscal year, and such amount shall be credited against the fees to be collected under this act for the ensuing fiscal year. Each such person shall receive as a credit that amount of the excess which corresponds proportionately to the amount of fees the person paid with respect to all fees collected under this act in the fiscal year that produced the excess.

History: L. 1993, ch. 113, § 3; L. 1994, ch. 248, § 24; L. 2001, ch. 5, § 179; July 1.

48-943: Rules and regulations; personnel. (a) The adjutant general shall adopt rules and regulations necessary to administer and implement the provisions of this act. Such rules and regulations shall include a schedule for the submission of emergency management budget requests by participating state and local government agencies and for the payment and disbursement of moneys from the nuclear safety emergency management fee fund. Commencing with the fiscal year ending June 30, 1993, the adjutant general shall prepare a budget estimate for each fiscal year showing the total of operating expenditures and capital improvement expenditures projected to be incurred in administering this act during the fiscal year. The budget estimate under this act shall be prepared only after consultation with those persons liable for the fees imposed under this act as to the costs necessary to enable state and local government agencies to perform their responsibilities in the event of an accident at a nuclear facility.

(b) Within the limitations of appropriation acts, the adjutant general is authorized to employ appropriate personnel necessary to administer the provisions of this act and rules and regulations adopted under this act. All costs incurred by the adjutant general in administering the provisions of this act shall be paid from fees collected pursuant to this act. The adjutant general shall have the duty, in administering this act, to prevent and eliminate any duplication of services or equipment.

History: L. 1993, ch. 113, § 4; L. 1994, ch. 248, § 25; July 1.

48-944: Administration of act. The adjutant general shall administer this act in conjunction with the administration of the Kansas emergency management act.

History: L. 1993, ch. 113, § 5; L. 1994, ch. 248, § 26; July 1.

48-945: Declaration of state of emergency; exemption of drivers of utility service vehicles from certain requirements. (a) Upon application by any utility, the division of emergency management may declare a state of emergency in all or any part of the state whenever conditions exist which

constitute an emergency, as defined in 49 CFR 390.5, as in effect on the effective date of this act or such later version as adopted by rules and regulations of the state corporation commission pursuant to [K.S.A. 66-1.129](#), and amendments thereto, subject to the following:

(1) The state of emergency shall be deemed to exist solely for the purpose of exempting drivers of utility service vehicles, as defined in 49 CFR 395.2, as in effect on the effective date of this act or such later version as adopted by rules and regulations of the state corporation commission pursuant to [K.S.A. 66-1.129](#), and amendments thereto, from limitations on hours of service prescribed by rules and regulations of the state corporation commission; and

(2) the exemption shall be subject to the conditions and limitations provided by 49 CFR 390.23, as in effect on the effective date of this act or such later version as adopted by rules and regulations of the state corporation commission pursuant to [K.S.A. 66-1.129](#), and amendments thereto, for exemptions pursuant to that regulation.

(b) The adjutant general may adopt rules and regulations to implement the provisions of this section.

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

History: L. 2005, ch. 65, § 1; Apr. 14.

[48-946, 48-947](#): Reserved.

48-948: Citation of act; purpose. (a) This act may be cited as the Kansas intrastate emergency mutual aid act.

(b) The purpose of this act is to create a system of intrastate mutual aid between participating Kansas political subdivisions. Each participant of this system recognizes that emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential for the protection of lives and property and for best use of available assets both public and private. The system shall provide for mutual assistance among the participating political subdivisions in the prevention of, response to and recovery from any disaster that results in a formal state of emergency in a participating political subdivision, subject to such participating political subdivision's criterion for a declaration. The system shall provide for mutual cooperation among the participating subdivisions in conducting disaster-related exercises, testing or other training activities outside actual declared emergency periods. The system shall provide a common glossary and definitions of resources based on a resource management program. This legislation provides no immunity, rights or privileges for any individual responding to a state of emergency that is not requested or authorized, or both, to respond by a participating political subdivision. Participating political subdivisions will be ensuring to the fullest extent possible, eligibility for state and federal disaster funding.

History: L. 2006, ch. 106, § 1; July 1.

48-949: Definitions. As used in this 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 official recognition for the emergency responder's expertise in a particular field or area of knowledge. "Emergency responder" may include, but is not limited to, the following: Law enforcement officers, fire fighters, 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.

History: L. 2006, ch. 106, § 2; July 1.

48-950: Kansas mutual aid system; participation by political subdivisions. All political subdivisions within the state, upon enactment of this act, are automatically a part of the Kansas mutual aid system. A political subdivision may elect not to participate or to later withdraw from the system by adoption of an appropriate resolution by its governing body declaring that it elects not to participate in the statewide mutual aid system and providing a copy of the resolution to the division. This act does not preclude participating political subdivisions from entering into supplementary agreements with another political subdivision and does not affect any other agreement to which a political subdivision may currently or in the future be a party under other Kansas statutes.

History: L. 2006, ch. 106, § 3; July 1.

48-951: Responsibilities of participating political subdivisions. It shall be the responsibility of each participating political subdivision with jurisdiction over and responsibility for emergency management within such subdivision to:

(a) Identify potential hazards that could affect the participating political subdivision, using an identification system common to all participating jurisdictions;

(b) conduct joint planning, intelligence sharing and threat assessment development with contiguous participating political subdivisions and conduct joint training;

(c) identify and inventory the current services, equipment, supplies, personnel and other resources related to planning, prevention, mitigation and response and recovery activities of the participating political subdivision; and

(d) adopt, train on and operate using the national incident management system as approved by division.

History: L. 2006, ch. 106, § 4; July 1.

48-952: Requests for assistance among participating political subdivisions. A participating political subdivision may request assistance of other participating political subdivisions in preventing, mitigating, responding to and recovering from disasters that result in locally-declared emergencies or in concert with authorized drills or exercises as allowed under this legislation. Requests for assistance shall be made through the chief executive officer of a participating political subdivision or the chief executive officer's designee. Requests may either be verbal or in writing and are not required to go directly to the division but in all cases will be reported to the division as soon as is practical. Verbal requests will be followed up with a written request as soon as is practical or such number of days as the division in its discretion may dictate.

History: L. 2006, ch. 106, § 5; July 1.

48-953: Obligation of participating political subdivisions to provide assistance; conditions. A participating political subdivision's obligation to provide assistance in the prevention of, response to and recovery from a locally-declared emergency or in authorized drills or exercises is subject to the following conditions:

(a) A participating political subdivision requesting assistance must have either declared a state of emergency in the manner specified in [K.S.A. 48-932](#), and amendments thereto, or authorized drills and exercises;

(b) a responding participating political subdivision may withhold resources to the extent necessary to provide reasonable protection and services for its own jurisdiction;

(c) emergency responders of a responding participating political subdivision shall continue under the command and control of their responding jurisdiction, to include medical protocols, standard operating procedures and other protocols, but shall be under the operational control of the appropriate officials within the incident management system of the participating political subdivision receiving the assistance; and

(d) assets and equipment of a responding participating political subdivision shall continue under the control of the responding political subdivision but shall be under the operational control of the appropriate officials within the incident management system of the participating political subdivision receiving the assistance.

History: L. 2006, ch. 106, § 6; July 1.

48-954: Recognition of license, certificate or other permit issued by participating political subdivision. If a person or entity holds a license, certificate or other permit issued by a participating political subdivision or the state evidencing qualification in a professional, mechanical or other skill and the assistance of such person or entity is requested by a participating political subdivision, the

person or entity shall be deemed to be licensed, certified or permitted in the political subdivision requesting assistance for the duration of the declared emergency or authorized drills or exercises, subject to any limitations and conditions the chief executive of the participating political subdivision receiving the assistance may prescribe by executive order or otherwise.

History: L. 2006, ch. 106, § 7; July 1.

48-955: Guidelines and procedures. The division shall develop comprehensive guidelines and procedures for implementation of the Kansas mutual aid system, including, but not limited to, the following: Projected or anticipated costs, checklists for requesting and providing assistance, record keeping for all participating political subdivisions, reimbursement procedures, use of a common glossary of terms and definitions of resources and other necessary implementation elements, along with the necessary forms for requests and other records documenting deployment and return of assets.

History: L. 2006, ch. 106, § 8; July 1.

48-956: Personnel of participating political subdivision; benefits. Personnel of a participating political subdivision responding to or rendering assistance for a request who sustain injury or death in the course of, and arising out of, their employment are entitled to all applicable benefits normally available to personnel while performing their duties for their employer. Such personnel shall receive any additional state and federal benefits that may be available to them for line-of-duty deaths.

History: L. 2006, ch. 106, § 9; July 1.

48-957: Nature of activities governmental; liability. All activities performed under this act are deemed hereby to be governmental functions. For the purposes of liability, all persons responding under the operational control of the requesting political subdivision are deemed to be employees of the requesting participating political subdivision. Except in cases of willful misconduct, gross negligence or bad faith, neither the participating political subdivisions nor their employees shall be liable for the death of or injury to persons or for damage to property when complying or attempting to comply with the Kansas mutual aid system.

History: L. 2006, ch. 106, § 10; July 1.

48-958: Severability. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect any other provision or application of the act which can be given effect without the invalid provision or application. To this end the provisions of this act are severable.

History: L. 2006, ch. 106, § 11; July 1.

48-959: Seizure of firearms prohibited during official state of emergency; cause of action created; attorney fees. (a) No officer or employee of the state or any political subdivision thereof, member of the Kansas national guard in the service of the state, or any person operating pursuant to or under color of state law, receiving state funds, under control of any official of the state or political subdivision thereof, or providing services to such officer, employee or other person, while acting during a declared official state of emergency, may:

(1) Temporarily or permanently seize, or authorize seizure of, any firearm the possession of which is not prohibited under state law, other than as evidence in a criminal investigation; or

(2) require registration of any firearm for which registration is not required by state law.

(b) Any individual aggrieved by a violation of this section may seek in the courts of this state relief in an action at law or in equity or other proper proceeding for redress against any person who subjects such individual, or causes such individual to be subjected, to the deprivation of any of the rights, privileges or immunities provided by this section.

(c) In addition to any other remedy at law or in equity, an individual aggrieved by the seizure or confiscation of a firearm in violation of this section may bring an action for return of such firearm in the district court of the county in which that individual resides or in which such firearm is located. In any action or proceeding to enforce this section, the court shall award the prevailing party, other than the state or political subdivision thereof, reasonable attorneys' fees.

(d) "Seize" shall mean the act of forcible dispossessing an owner of property under actual or apparent authority of law.

History: L. 2008, ch. 97, § 1; July 1.