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Kansas Emergency Management and Homeland Security Authorities Summarized

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Summary

Kansas statutes establish a procedure for assessing the need for and distribution of basic necessities following a natural disaster. The governor is authorized to issue a state of emergency proclamation and the legislature plays an oversight role concerning the duration or termination of the emergency. Provisions exist for all three branches of state government to ensure the continuity of government operations. School districts are authorized to donate surplus property to disaster relief programs.

This report is one of a series that profiles emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified. Congressional readers may wish to conduct further searches for related provisions using the Internet link presented in the last section of this report. The National Conference of State Legislatures provided primary research assistance in the development of these profiles under contract to the Congressional Research Service (CRS). Summary information on all of the profiles is presented in CRS Report RL32287. This report will be updated as developments warrant.

Entities with Key Responsibilities

Governor: The authorities given to the governor include powers during a state of disaster emergency in the following areas: evacuations; use of private property; transfer of agencies and staff; ingress and egress into disaster areas; sales of alcohol, firearms, explosives, and combustibles; and the provision of temporary emergency housing (Kan. Stat. Ann. §48-924, 48-925).

Division of emergency management: The authority of the Division of Emergency Management (DEM) includes determining the needs of stricken areas during and after disasters, procuring and distributing supplies, promulgating standards and requirements for plans and for mutual aid, and periodically reviewing local and interjurisdictional emergency plans, among other duties (Kan. Stat. Ann. §48-905a, 48-928).

Adjutant general: The duties of the adjutant general include the development of a regional emergency management system and implementation of an incident management system (Kan. Stat. Ann. §48-905a, Kan. Stat. Ann. §48-928 (n,o)).

Interjurisdictional disaster agencies: The statute authorizes the governor to establish such agencies for two or more counties that would be better served with interjurisdictional, rather than separate, agencies (Kan. Stat. Ann. §48-930).

County and city disaster agencies: Each county is required to have a disaster agency; the governor has authority to decide which cities need disaster agencies, based on an assessment of each city's vulnerability and response capability (Kan. Stat. Ann. §48-929).

County and city officials: Local officials are authorized to issue a local disaster emergency declaration that may continue for a maximum period of seven days (Kan. Stat. Ann. §48-932).

Commission on emergency planning and response: The commission is charged with providing assistance in the coordination of state activities related to: chemical emergency training, preparedness, and response; chemical release reporting; and the prevention, transportation, manufacture, storage, handling, and use of chemical emergencies (Kan. Stat. Ann. §65-5703, §65-5723).

Preparedness

DEM officials must prepare a state emergency disaster plan and a state resources management plan to aid recovery after a disaster (Kan. Stat. Ann. §§48-926, 927). Also, the division must develop and oversee the revision of state, local/interjurisdictional disaster plans (Kan. Stat. Ann. §48-931) and assess communications systems and make recommendations to the governor (Kan. Stat. Ann. §48-937).

The adjutant general, at the governor's request, must create and establish mobile support units in order to reinforce the emergency management activities of county, city, and interjurisdictional disaster agencies (Kan. Stat. Ann. §48-911).

DEM is to use the incident management system during emergency and disaster situations (Kan. Stat. Ann. §48-928(o)) and develop, implement and administer a plan for regional emergency medical response teams (Kan. Stat. Ann. §48-928(q)).

Declaration Procedures

The governor is authorized to issue a proclamation declaring a “state of disaster emergency.” The disaster emergency lasts until the governor finds that the threat has passed or conditions no longer exist, and extends for a maximum period of 15 days, unless the legislature ratifies the proclamation with a stated period of time (with one exception for one 30-day extension). If the legislature is not in session, the emergency may be extended for another 30 days by majority vote of the legislators on the State Finance Council. After the initial 30-day period, additional extensions of the emergency (for up to 30 days) may be authorized by a unanimous vote of legislative members of the State Finance Council. The legislature may require the governor to terminate a state of emergency with another proclamation. The state of disaster emergency must be terminated on the 15th day of the next regular legislative session unless ratified by concurrent resolution. The governor may also issue a proclamation to prevent the spread of contagious or infectious diseases among domestic animals (Kan. Stat. Ann. §48-924(b)).

If the governor is not available or is disabled, successors can declare a state of emergency (Kan. Stat. Ann. §48-924(c)).

Types of Assistance

DEM must develop and administer financial assistance to cities or interjurisdictional disaster agencies for the development and implementation of a terrorism preparedness program (Kan. Stat. Ann. §48-928(p,q)).

Federal grants are authorized to be provided to individuals and families under terms of the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act (Kan. Stat. Ann. §48-938).

School districts may donate surplus personal property to disaster relief programs, including furniture, supplies, desks, chairs, tables, bookcases, file cabinets, clothing, books, maps, lab and shop equipment (Kan. Stat. Ann. §72-8324).

The adjutant general may lease, sell or loan state property to federal or local governments (Kan. Stat. Ann. §48-914).

Mutual Aid

The governor is authorized to execute the terms of the *Interstate Emergency Management Assistance Compact* (Kan. Stat. Ann. §48-9a01).

The governor is authorized to establish interstate mutual aid organizations (Kan. Stat. Ann. §48-930(c)).

The *National Guard Mutual Assistance Compact* authorizes the governor to use the national guard to cope with emergencies involving other states. The statute requires that the responding state be paid by the host state for salary, compensation and death benefits (Kan. Stat. Ann. §48-1701). The compact authorizes the payment of claims arising under

implementation of the compact, with the State Finance Council authorized to make allocations and authorize expenditures by the adjutant general from the state emergency fund for the related expenses (Kan. Stat. Ann. §48-1702).

The *Interstate Civil Defense and Disaster Compact* is codified to provide mutual aid from enemy attack (Kan. Stat. Ann. §48-3201).

Funding

The state emergency fund is authorized to be continued in the state treasury for use by the State Finance Council. If funds are deficient, funds must be transferred from the general fund, not to exceed \$10 million. The council, by unanimous vote of the members, is authorized to allocate money from the fund for the repair of state facilities after a disaster or payment of the state matching requirement (Kan. Stat. Ann. §75-3712 *et seq.*).

The statute authorizes the State Finance Council to provide funds to the adjutant general from the state emergency fund for national guard expenses (Kan. Stat. Ann. §75-3713 b).

Through the governor, the state may accept services, equipment, supplies, materials or funds as a gift, grant, or loan for emergency management purposes (Kan. Stat. Ann. §48-916).

Hazard Mitigation

DEM must develop a regional emergency management system to prevent, respond to, mitigate and recover from emergency and disaster situations (Kan. Stat. Ann. §48-928(n)).

Continuity of Government Operations

The statute directs the legislature to provide a line of succession to the office of the governor should the offices of governor and lieutenant governor become vacant (Kan. Constitution, Article I, Section 11).

The *Emergency Interim Executive and Judicial Succession Act* provides for successors to the office of governor and sets out requirements concerning: emergency interim successors; enabling authority for emergency interim successors; special emergency judges; and settling disputes and other matters (Kan. Stat. Ann. §48-1201 *et seq.*).

The *Emergency Interim Legislative Succession Act* includes: the designation of emergency interim successors for legislators, status and qualifications of emergency interim successors, the duty of emergency interim successor, place of legislative session, procedures for convening the legislature in the event of an attack, and other provisions (Kan. Stat. Ann. §48-1301 *et seq.*).

The statute provides for the emergency location of governments for state political subdivisions (Kan. Stat. Ann. §48-1403) and the emergency location of state governments (Kan. Stat. Ann. §48-1503).

Any ordinance authorizing a mayor or other person to act during state of emergency or local disaster shall be in full force and effect except in conflict with state statutes or disaster emergency plans (Kan. Stat. Ann. §48-935).

Other

The statute provides for immunity from liability for a state and a political subdivision for personal injury or property damage done by volunteer or agency staff engaged in emergency management activities (Kan. Stat. Ann. §48-915(a)).

The statute provides immunity for law enforcement, military and other authorized personnel acting during a state of disaster emergency (Kan. Stat. Ann. §48-934).

The statute provides immunity for owners of private property used to provide shelter during nuclear practice attack and disaster (Kan. Stat. Ann. §48-936).

Persons advocating change in the U.S. government by force or violence cannot be employed by an emergency management organization (Kan. Stat. Ann. §48-917).

A city is authorized to purchase accident insurance for emergency management volunteer workers but such purchase does not constitute a waiver of immunity (Kan. Stat. Ann. §48-922).

Each person is required to manage his or her affairs and property to assist and not detract from the state’s ability to respond to a disaster. The statute addresses conditions under which compensation is to be provided for services provided or property taken or used (Kan. Stat. Ann. §48-933).

Key Terms

Table 1. Key Emergency Management and Homeland Security Terms Defined in Kansas Statutes, with Citations

Terms	Citations
Adjutant general	Kan. Stat. Ann. §48-904(b)
Attack	Kan. Stat. Ann. §48-1203(d), 48-1303(a)
Catastrophic event	Kan. Stat. Ann. §59-2708(b)(1)
Disaster	Kan. Stat. Ann. §48-904(d), 72-8234(b)(1), Kan. Stat. Ann. §59-27-8(b)(2)
Disaster relief	Kan. Stat. Ann. §72-8234(b)(2)

Terms	Citations
Division of emergency management	Kan. Stat. Ann. §48-904(c)
Emergency interim successor	Kan. Stat. Ann. §48-1203(b)
Emergency management	Kan. Stat. Ann. §48-904(a)
Hazardous material	Kan. Stat. Ann. §48-904(h)
Local/interjurisdictional disaster emergency plans	Kan. Stat. Ann. §48-904(g)
State disaster emergency plan	Kan. Stat. Ann. §48-904(f)
Commission on emergency planning and response	Kan. Stat. Ann. §65-5702(a), 65-5723
State of emergency	Kan. Stat. Ann. §59-2708(b)(3), 65-5723
State of war emergency	Kan. Stat. Ann. §59-2708(b)(4)
Volunteer workers	Kan. Stat. Ann. §48-922(b)

For Further Research

The citations noted above and other elements of the state code for Kansas may be searched at: [<http://www.kslegislature.org/cgi-bin/statutes/index.cgi>].