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MEMORANDUM

To: Senate Committee on Judiciary

From: Office of Revisor of Statutes

Date: May 19, 2020

Subject: Summary of executive orders issued related to COVID-19 that remain in effect

This purpose of this memorandum is to provide a summary of the executive orders issued during the state of disaster emergency declaration that are still in effect. Executive Order 20-28 extended many of the executive orders that were in place on April 30, 2020. For purposes of this memorandum, I have listed those orders under the original executive order number.

Executive Order 20-03

This executive order extends any local disaster emergency issued pursuant to K.S.A. 48-932 relating to COVID-19 for the duration of the state of disaster emergency or until EO 20-03 is rescinded.

Executive Order 20-05

This executive order requires all Kansas utility providers that are not under the jurisdiction of the Kansas Corporation Commission temporarily suspend the practice of disconnecting service for non-payment. It applies to electrical, natural gas, water, telecommunications utilities, and internet service providers.

Executive Order 20-07

This executive order requires all public and private K-12 schools to close and cease in-person instruction. Facilities operating with fewer than 10 students, instructors or staff may continue operations if they comply with social distancing and hygiene directives. This order requires the Commissioner of Education and the State Department of Education to provide guidance for continuous learning plans. School should work with local governments to determine appropriate provision of meals and childcare. The Commissioner of Education is authorized to grant waivers needed to comply with federal law or ensure eligibility for federal funding.

Executive Order 20-08

This executive order prohibits the Kansas State Board of Healing Arts from enforcing laws requiring physicians to conduct in-person examinations of patients prior to issuing prescriptions or ordering medication administration. Physicians are encouraged to use telemedicine services and out-of-state physicians may utilize telemedicine when treating patients in Kansas without obtaining a license in Kansas, provided such a physician complies with the order. This order also authorizes the Kansas State Board of Healing Arts to grant temporary emergency licenses to practice professions regulated by the board to an applicant whose qualifications are sufficient to protect public safety and welfare, and the Board may waive regulatory requirements to respond to the effects of COVID-19.

Executive Order 20-10

This executive order prohibits a bank or financial lending entity from foreclosing on residential property in Kansas when defaults are substantially caused by a financial hardship resulting from the COVID-19 pandemic. Landlords may not evict residential tenants when defaults or violations of rental agreements are substantially caused by a financial hardship resulting from the COVID-19 pandemic. The order does not relieve mortgage borrowers or tenants who have not suffered financial hardship of their obligations to comply with mortgage or rental agreements. After the state of disaster emergency expires and financial hardships abate, borrowers, lenders, renters and landlords should negotiate payment plans or other agreements to address defaults or missed payments.

Executive Order 20-11

This executive order prohibits all Kansas waste removal providers from canceling or suspending commercial or residential waste or recycling removal services because of nonpayment due to loss of income resulting from the COVID-19 pandemic. This order applies to all waste removal and recycling services, whether provided by a private company, municipality or other entity.

Executive Order 20-12

This executive order requires the Kansas Department of Revenue Division of Vehicles to extend vehicle registration renewal deadlines for passenger vehicles, motorcycles, trucks and trailers. No late fees shall be charged for delinquent registrations. The Division shall extend temporary sixty-day permits for recently purchased vehicles. The Division is also required to extend the term of drivers' licenses and identification cards for those not able to renew due to COVID-19. Law enforcement officers are to use discretion in deciding whether to enforce laws

related to expired drivers' licenses. All renewals and registrations extended must be completed within 60 days of the expiration of the order.

Executive Order 20-13

This executive order requires the Department of Revenue to extend the deadline for filing 2019 calendar year tax returns to July 15, 2020. No penalty or interest shall be imposed if payment is made by July 15, 2020. This order also requires the Department of Revenue to extend the filing date for homestead and property tax relief refund claims to October 15, 2020. This order does not change laws related to estimated tax payments due April 15, 2020.

Executive Order 20-17

This executive order requires all employers operating in Kansas to provide notification of the potential availability of unemployment insurance benefits to employees at the time of separation from employment. The notice must comply with requirements established by the Secretary of Labor. This order also waives the waiting week requirement for unemployment benefits and the requirement that claimants actively seek work each week.

Executive Order 20-19

This executive order requires all state agencies to extend renewal deadlines for any occupational or professional license, certificate, permit or registration for any individual, business or organization that was in good standing as of March 12, 2020 that will expire during the state of disaster emergency. These licenses, certificates, permits and registrations shall remain valid for 90 days following the termination of the state of disaster emergency. Agencies must waive any late fees associated with these licenses, certificates, permits or registrations. Agencies must also extend deadlines for any continuing education requirements until 90 days following termination of the state of disaster emergency. This order does not affect licensing for attorneys.

Executive Order 20-20

This executive order allows a notary public to perform remote notarizations via two-way audio-visual communication technology during the state of disaster emergency provided such notary public complies with the order. This order does not alter statutes found in Article 16 of Chapter 16 of the Kansas Statutes Annotated relating to electronic transactions. During the state of disaster emergency all legal documents may be signed in counterparts by the witnesses and the signatory absent an express prohibition in the document.

Executive Order 20-21

This executive order suspends the issuance of general nonresident spring 2020 turkey permits. All other laws relating to spring turkey hunting remain in effect.

Executive Order 20-22

This executive order suspends Title 49 C.F.R. §§ 390-399 for motor carriers and people operating commercial vehicles actively participating in COVID-19 relief or restoration efforts. Such people may haul up to 10% more than their licensed weight on Kansas highways, not to exceed 90,000 pounds. All other applicable state and federal regulations shall continue to apply. Licensing, certification and permitting rules and regulations by the Kansas Corporation Commission and the registration and fuel tax permits enforced by the Kansas Department of Revenue are temporarily suspended for motor carriers and people operating commercial vehicles actively participating in COVID-19 relief. Such people must still obtain over-dimension and overweight permits required by the Kansas Department of Transportation, but fees associated with such permits are waived.

Executive Order 20-23

This executive order requires state agencies working with the Kansas Department for Aging and Disability Services to extend renewal deadlines for occupational or professional licensure. A temporary license may be issued for persons previously licensed if such person was in good standing prior to the lapse of licensure. A temporary aide authorization may be issued for persons with minimum training with the nursing facility as set forth by the Kansas Department for Aging and Disability Services. A temporary authorization may be issued for persons who were not previously licensed, but such individuals may only serve persons who require minimal supervision or assistance and the facility must ensure such individuals are competent to perform duties. The State Fire Marshall's duties regarding inspection of adult care homes shall be suspended during and until 90 days following the state of disaster emergency. Any fees associated with Kansas-licensed adult care homes shall be suspended until 90 days following the termination of the state of disaster emergency. For transfers or discharges as a result of the COVID-19 status of residents, the 30-day notification requirements in rules and regulations are suspended until 30 days after the termination of the state of disaster emergency. The facility shall provide the Department with 5 days' notice of the transfer or discharge. The 30-day notice requirement for change of services, the requirement to produce documents for inspection with two calendar days, the free choice requirement, the requirement to develop a comprehensive care plan, and the right to participate in organized groups are all suspended. Consistent with Centers

for Medicare and Medicaid Services guidance, certain adult care home licensing requirements are suspended.

Executive Order 20-26

This executive order directs that Kansas statutes relating to supervision, delegation and related issues by healthcare providers are temporarily suspended as necessary to allow healthcare professionals to provide medical services that are necessary to support a facility's response to the COVID-19 pandemic. Medical services in this section may be provided without supervision from a licensed physician or nurse without criminal, civil or administrative penalty. Healthcare facilities are temporarily authorized to allow students enrolled in programs to work within the facility in whatever roles necessary, licensed healthcare professionals serving in the military to work within the facility in whatever role necessary, and medical students, physical therapists and emergency medical personnel to work as respiratory therapist extenders. Kansas laws are suspended as necessary to allow healthcare professionals licensed in another state to practice in Kansas. All healthcare providers making clinical and triage decisions and rendering assistance related to COVID-19 shall be deemed immune from suit pursuant to K.S.A. 48-915, unless there is willful misconduct, gross negligence, recklessness or bad faith established. Licensing requirements for healthcare providers are suspended.

Executive Order 20-27

This executive order suspends requirements that alcoholic beverages be consumed on-premises and sold in its original container. This order allows the sale of alcoholic beverages for carryout consumption and permits the sale of liquor in a container that is not the original container. The sale of alcoholic beverages for carryout must be sold by an establishment licensed to sell alcoholic liquor, containers must have been purchased on the licensed premises, the licensee must provide a dated receipt, and the licensee must place the container in a transparent bag that is sealed in a manner that makes it visibly apparent if the bag is subsequently tampered with or opened.

Executive Order 20-28

This executive order extends the orders previously discussed in this memorandum through May 31, 2020, or until the state of disaster emergency proclaimed on April 30, 2020, expires, except for EO 20-22, which expires at 11:59 p.m. on May 15, 2020, unless extended by another order. The original orders were issued under the original state of disaster emergency declaration proclaimed on March 12, 2020. When the new state of disaster emergency

declaration was issued on April 30, 2020, the Governor issued this order to continue in effect the orders previously listed.

Executive Order 20-29

This executive order directs Phase One of Ad Astra: A Plan to Reopen Kansas. Under Phase One, mass gatherings of more than 10 people are prohibited. Individuals and business are encouraged to follow guidance in this order. Businesses not otherwise prohibited may open if they can maintain at least six feet of distance between customers, follow fundamental cleaning practices, and avoid instances where groups of more than 10 people are in one location unable to maintain 6-foot distance with only infrequent incidental moments of closer proximity. Bars, nightclubs, non-tribal casinos, theaters, museums, indoor leisure spaces, fitness centers, gyms, nail salons, barber shops, hair salons, tanning salons, tattoo parlors and other personal services businesses are to remain closed. K-12 facilities remain closed as provided in Executive Order 20-07. Higher education facilities should remain closed for in-person learning or events involving more than 10 individuals present at a time. Licensed childcare facilities may continue operations. Activities and venues not otherwise prohibited may open if they can maintain at least six feet of distances between customers, follow fundamental cleaning practices, and avoid instances where groups of more than 10 people are in one location unable to maintain 6-foot distance with only infrequent incidental moments of closer proximity. Community centers, entertainment venues with a capacity over 2,000 people, fairs, festivals, carnivals, parades, commencements, graduations, swimming pools, organized sports and summer camps are to remain closed. Essential functions identified in the Kansas Essential Functions Framework from Executive Order 20-16 should continue. Nothing in the order restricts the Secretary of Health and Environment's authority to make isolation, quarantine or other orders restricting movement as necessary. Local governments retain authority to issue equally or more restrictive orders. Law enforcement officers should use discretion and consult with legal counsel in enforcement actions. Private labs conducting testing for COVID-19 shall report both positive and negative tests to the Kansas Department of Health and Environment. The Four Tribes of Kansas retain authority to regulate their population.

Executive Order 20-31

This executive order directs Phase 1.5 of Ad Astra: A Plan to Reopen Kansas. The differences between phase one and this phase are that hair salons, barber shops, nail salons, tanning salons, tattoo parlors and other personal services businesses are open by appointment.

Gyms are allowed to open in some capacity, and there are more specific guidelines about sports and sports practice.

Executive Order 20-32

This executive order suspends the prohibition in K.S.A. 44-757 against allowing a contributing employer that is a negative account employer from participating in a shared work plan, enabling those employers and their employees to participate in the short-term compensation program under the CARES Act.

Executive Order 20-33

This executive order extends the suspension of motor carrier regulations order, originally Executive Order 20-22 and originally extended by Executive Order 20-28, until 11:59 p.m. on June 14, 2020, or until the statewide state of disaster emergency expires, whichever is earlier.