

## HOUSE BILL No. 2572

By Committee on Education

2-6

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1 AN ACT concerning teachers; creating the educator protection act; relating  
2 to excess professional liability insurance coverage for teachers;  
3 amending K.S.A. 75-4101 and repealing the existing section.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) The provisions of sections 1 through 7, and  
7 amendments thereto, shall be known and may be cited as the educator  
8 protection act.

9 (b) The purposes of the educator protection act is to establish the  
10 Kansas educator liability fund to provide excess professional liability  
11 insurance coverage for all teachers and student teachers, subject to the  
12 appropriations therefor. The Kansas educator liability fund shall protect  
13 against damages for claims arising out of the performance of teachers' and  
14 student teachers' duties within the scope of their employment or  
15 assignment.

16 New Sec. 2. As used in sections 1 through 7, and amendments  
17 thereto:

18 (a) "Commissioner" means the commissioner of insurance.

19 (b) "State board" means the state board of education.

20 (c) "Student teacher" means an individual enrolled as a student in a  
21 college or university who holds a valid student teacher certificate issued by  
22 the state board.

23 (d) "Teacher" means an individual licensed to practice teaching by the  
24 state board.

25 New Sec. 3. (a) There is hereby established in the state treasury the  
26 Kansas educator liability fund to be administered by the commissioner of  
27 insurance. Moneys in the Kansas educator liability fund shall be expended  
28 only for the purposes established in this act. All expenditures from the  
29 fund shall be made in accordance with appropriation acts upon warrants of  
30 the director of accounts and reports issued pursuant to vouchers approved  
31 by the commissioner, or the commissioner's designee, for the purposes set  
32 forth in this act.

33 (b) On or before the 10<sup>th</sup> of each month, the director of accounts and  
34 reports shall transfer from the state general fund to the Kansas educator  
35 liability fund interest earnings based on:

36 (1) The average daily balance of moneys in the Kansas educator

1 liability fund; and

2 (2) the net earnings rate of the pooled money investment portfolio for  
3 the preceding month.

4 New Sec. 4. (a) Professional liability coverage provided under this  
5 act shall automatically cover all full-time and part-time teachers and  
6 student teachers. No premium, fee or other cost shall be charged to any  
7 teacher or student teacher for such coverage.

8 (b) The expenses that may be paid from the Kansas educator liability  
9 fund shall include the costs associated with the administration of the fund,  
10 including, but not limited to, any insurance policy or policies purchased or  
11 otherwise acquired by the commissioner and any contracts entered into by  
12 the commissioner.

13 (c) Any insurance policy or policies purchased or otherwise acquired  
14 by the commissioner and any contracts entered into by the commissioner  
15 shall cover incidents that occurred on or after July 1, 2020.

16 New Sec. 5. In order to implement the provisions of this act, the  
17 commissioner may:

18 (a) Establish the type or types of insurance and the insurance limits as  
19 excess insurance coverage necessary to carry out the purposes of this act;

20 (b) purchase or otherwise acquire the insurance policy or policies  
21 with the Kansas educator liability fund as the insured;

22 (c) establish the effective date for which insurance coverage will be  
23 provided pursuant to this act;

24 (d) enter into contracts with insurance companies, financial  
25 consultants, actuaries, auditors, investment managers, individual attorneys,  
26 law firms and any other consultants or professionals the commissioner  
27 deems necessary to effectuate the purposes of this act;

28 (e) establish the process for the administration of claims filed  
29 pursuant to this act;

30 (f) annually recommend to the legislative budget committee the total  
31 occurrence basis funding required to satisfy the liabilities arising under  
32 this act; and

33 (g) on or before January 1, 2021, adopt rules and regulations  
34 necessary to implement and administer the provisions of this act.

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

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

43 Sec. 8. K.S.A. 75-4101 is hereby amended to read as follows: 75-

1 4101. (a) There is hereby created a committee on surety bonds and  
2 insurance, ~~which~~ *that* shall consist of the state treasurer, the attorney  
3 general and the commissioner of insurance or their respective designees.  
4 The commissioner of insurance shall be the chairperson of the committee  
5 and the director of purchases or the director's designee shall be the ex  
6 officio secretary. The committee shall meet upon the call of the  
7 chairperson and at such other times as the committee shall determine but at  
8 least once each month on the second Monday in each month. Meetings  
9 shall be held in the office of the commissioner of insurance. The members  
10 of the committee shall serve without compensation. The secretary shall be  
11 the custodian of all property, records and proceedings of the committee.  
12 Except as provided in this section and K.S.A. 74-4925, 74-4927, 75-6501  
13 through 75-6511 and 76-749, *and amendments thereto, and section 5*, and  
14 amendments thereto, no state agency shall purchase any insurance of any  
15 kind or nature or any surety bonds upon state officers or employees, except  
16 as provided in this act. Except as otherwise provided in this section, health  
17 care coverage and health care services of a health maintenance  
18 organization for state officers and employees designated under K.S.A. 75-  
19 6501(c), and amendments thereto, shall be provided in accordance with the  
20 provisions of K.S.A. 75-6501 through 75-6511, and amendments thereto.

21 (b) The Kansas turnpike authority may purchase group life, health  
22 and accident insurance or health care services of a health maintenance  
23 organization for its employees or members of the highway patrol assigned,  
24 by contract or agreement entered pursuant to K.S.A. 68-2025, and  
25 amendments thereto, to police toll or turnpike facilities, independent of the  
26 committee on surety bonds and insurance and of the provisions of K.S.A.  
27 75-6501 through 75-6511, and amendments thereto. Such authority may  
28 purchase liability insurance covering all or any part of its operations and  
29 may purchase liability and related insurance upon all vehicles owned or  
30 operated by the authority independent of the committee on surety bonds  
31 and insurance and such insurance may be purchased without complying  
32 with K.S.A. 75-3738 through 75-3744, and amendments thereto. Any  
33 board of county commissioners may purchase such insurance or health  
34 care services, independent of such committee, for district court officers  
35 and employees any part of whose total salary is payable by the county.  
36 Nothing in any other provision of the laws of this state shall be construed  
37 as prohibiting members of the highway patrol so assigned to police toll or  
38 turnpike facilities from receiving compensation in the form of insurance or  
39 health maintenance organization coverage as herein authorized.

40 (c) The agencies of the state sponsoring a foster grandparent or senior  
41 companion program, or both, shall procure a policy of accident, personal  
42 liability and excess automobile liability insurance insuring volunteers  
43 participating in such programs against loss in accordance with

1 specifications of federal grant guidelines. Such agencies may purchase  
2 such policy of insurance independent of the committee on surety bonds  
3 and insurance and without complying with K.S.A. 75-3738 through 75-  
4 3744, and amendments thereto.

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

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

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

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

42 (4) The state board of regents may adopt rules and regulations  
43 necessary to administer and implement the provisions of this section.

- 1       Sec. 9. K.S.A. 75-4101 is hereby repealed.
- 2       Sec. 10. This act shall take effect and be in force from and after its
- 3       publication in the statute book.