

SENATE BILL No. 204

By Committee on Ways and Means

2-16

1 AN ACT enacting the Kansas cybersecurity act; relating to digital
2 information security for Kansas executive branch agencies; establishing
3 the Kansas information security office, executive branch chief
4 information security officer and the cybersecurity state grant fund
5 coordinating council; establishing the cybersecurity state fund and the
6 cybersecurity state grant fund in the state treasury; amending K.S.A.
7 2016 Supp. 8-145 and repealing the existing section.
8

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

10 New Section 1. Sections 1 through 9, and amendments thereto, shall
11 be known and may be cited as the Kansas cybersecurity act.

12 New Sec. 2. As used in sections 1 through 9, and amendments
13 thereto:

14 (a) "Act" means the Kansas cybersecurity act.

15 (b) "Breach" or "breach of security" means unauthorized access of
16 data in electronic form containing personal information. Good faith access
17 of personal information by an employee or agent of the executive branch
18 agency does not constitute a breach of security, provided that the
19 information is not used for a purpose unrelated to the business or subject to
20 further unauthorized use.

21 (c) "CISO" means the executive branch chief information security
22 officer.

23 (d) "CSGFCC" means the cybersecurity state grant fund coordinating
24 council.

25 (e) "Customer records" means any material, regardless of the physical
26 form on which personal information is recorded or preserved, including,
27 but not limited to, written or spoken words, whether graphically depicted,
28 printed or electromagnetically transmitted that are provided by an
29 individual in this state to an executive branch agency for the purpose of
30 purchasing or leasing a product or obtaining a service.

31 (f) "Cybersecurity" is the body of technologies, processes and
32 practices designed to protect networks, computers, programs and data from
33 attack, damage or unauthorized access.

34 (g) "Data in electronic form" means any data stored electronically or
35 digitally on any computer system or other database and includes
36 recordable tapes and other mass storage devices.

1 (h) "Executive branch agency" means any agency in the executive
2 branch of the state of Kansas, but does not include elected office agencies
3 or regents institutions.

4 (i) "Local governmental entity" means any department, division,
5 bureau, commission, regional planning agency, board, district, authority,
6 agency or other instrumentality of this state that acquires, maintains, stores
7 or uses data in electronic form containing personal information.

8 (j) (1) "Personal information" means either of the following:

9 (A) An individual's first name or first initial and last name, in
10 combination with at least one of the following data elements for that
11 individual:

12 (i) Social security number;

13 (ii) driver's license or identification card number, passport number,
14 military identification number or other similar number issued on a
15 government document used to verify identity;

16 (iii) financial account number or credit or debit card number, in
17 combination with any security code, access code or password that is
18 necessary to permit access to an individual's financial account;

19 (iv) any information regarding an individual's medical history, mental
20 or physical condition or medical treatment or diagnosis by a health care
21 professional; or

22 (v) an individual's health insurance policy number or subscriber
23 identification number and any unique identifier used by a health insurer to
24 identify the individual; or

25 (B) a user name or e-mail address, in combination with a password or
26 security question and answer that would permit access to an online
27 account.

28 (2) Personal information does not include information:

29 (A) About an individual that has been made publicly available by a
30 federal, state or local governmental entity; or

31 (B) that is encrypted, secured or modified by any other method or
32 technology that removes elements that personally identify an individual or
33 that otherwise renders the information unusable.

34 New Sec. 3. (a) There is hereby established within and as a part of the
35 office of information technology services the position of executive branch
36 chief information security officer. The CISO shall be in the unclassified
37 service under the Kansas civil service act, shall be appointed by the
38 governor and shall receive compensation in an amount fixed by the
39 governor.

40 (b) The CISO shall:

41 (1) Report to the executive chief information technology officer;

42 (2) serve as the state's CISO;

43 (3) serve as the executive branch chief cybersecurity strategist and

1 authority on policies, compliance, procedures, guidance and technologies
2 impacting executive branch agency cybersecurity programs;

3 (4) ensure cybersecurity training programs are provided for executive
4 branch agencies;

5 (5) ensure compliance with local policy and applicable regulatory
6 authority for background investigations of personnel resources assigned in
7 support of executive branch agencies;

8 (6) ensure compliance with cybersecurity policies established by the
9 Kansas information technology executive council pursuant to K.S.A. 2016
10 Supp. 75-7203, and amendments thereto, as well as applicable federal
11 standards for resources assigned or provided;

12 (7) ensure any executive branch agency is provided an opportunity to
13 discuss cultural fit and qualifications of assigned security resources;

14 (8) ensure Kansas information security office personnel resources
15 assigned to executive branch agencies are protected from retribution for
16 reporting violations;

17 (9) coordinate cybersecurity efforts between executive branch
18 agencies, state information resources and local governmental entities;

19 (10) have authority to:

20 (A) Oversee executive branch agency cybersecurity plans for
21 information technology projects;

22 (B) halt executive branch agency information technology projects or
23 information systems that are not compliant with approved cybersecurity
24 plans;

25 (C) conduct ad hoc security assessments of executive branch agency
26 information systems and internal information technology operating
27 environments;

28 (D) suspend public access to executive branch agency information
29 resources where compromise of restricted use information or computer
30 resources has occurred or is likely to occur as the result of an identified
31 high risk vulnerability or threat;

32 (E) disburse state cybersecurity funds and cybersecurity state grant
33 funds; and

34 (F) hire, promote, suspend, demote, discipline and dismiss all
35 executive branch cybersecurity positions; and

36 (11) perform such other functions and duties as provided by law and
37 as directed by the executive chief information technology officer or the
38 governor.

39 New Sec. 4. (a) There is hereby established within and as a part of the
40 office of information technology services the Kansas information security
41 office. The Kansas information security office shall be administered by the
42 CISO and be staffed appropriately to effect the provisions of the Kansas
43 cybersecurity act.

1 (b) For the purpose of preparing the governor's budget report and
2 related legislative measures submitted to the legislature, the Kansas
3 information security office established in this section shall be considered a
4 separate state agency and shall be titled for such purpose as the "Kansas
5 information security office." The budget estimates and requests of such
6 office shall be presented as from a state agency separate from the
7 department of administration, and such separation shall be maintained in
8 the budget documents and reports prepared by the director of the budget
9 and the governor, or either of them, including all related legislative reports
10 and measures submitted to the legislature.

11 (c) Under direction of the CISO, the Kansas information security
12 office shall perform the following functions for executive branch agencies,
13 unless otherwise stated:

14 (1) Administer the Kansas cybersecurity act;

15 (2) assist in developing, implementing and monitoring strategic and
16 comprehensive information security risk-management programs;

17 (3) facilitate information security governance, including the
18 formation of an information security steering committee or advisory board;

19 (4) create and manage a unified and flexible control framework to
20 integrate and normalize requirements resulting from global laws, standards
21 and regulations;

22 (5) facilitate a metrics, logging and reporting framework to measure
23 the efficiency and effectiveness of the state information security programs;

24 (6) provide strategic risk guidance for information technology
25 projects, including the evaluation and recommendation of technical
26 controls;

27 (7) ensure that security programs are in compliance with relevant
28 laws, rules and regulations and policies;

29 (8) coordinate the use of external resources involved in information
30 security programs, including, but not limited to, interviewing, negotiating
31 contracts and fees and managing external resources;

32 (9) interact with related disciplines through committees to ensure the
33 consistent application of policies and standards across all technology
34 projects, systems and services, including, but not limited to, privacy, risk
35 management, compliance and business continuity management;

36 (10) liaise with external agencies, such as law enforcement and other
37 advisory bodies as necessary, to ensure a strong security posture;

38 (11) assist in the development of effective disaster recovery policies
39 and standards;

40 (12) assist in the development of implementation plans and
41 procedures to ensure that business-critical services are recovered in a
42 cybersecurity event;

43 (13) review and restructure, as necessary, current information

1 technology security responsibilities pursuant to section 3, and amendments
2 thereto;

3 (14) coordinate information technology security interests between
4 institutions governed by the regents, the legislative branch, the judicial
5 branch, other executive elected office state agencies and local government
6 entities; and

7 (15) perform such other functions and duties as provided by law and
8 as directed by the CISO.

9 New Sec. 5. (a) The cybersecurity state grant fund coordinating council
10 is hereby established. The CSGFCC shall approve and monitor the
11 delivery of state grant fund cybersecurity services, develop strategies for
12 state grant fund cybersecurity initiatives and award available grant funds
13 as prescribed in section 8, and amendments thereto.

14 (b) The CSGFCC shall be composed of:

15 (1) The CISO, who shall serve as a permanent voting member; and

16 (2) the following members appointed by the governor:

17 (A) Two members representing information technology personnel
18 from executive branch agencies;

19 (B) two members representing legal counsel from executive branch
20 agencies; and

21 (C) one member representing financial personnel from executive
22 branch agencies.

23 (c) (1) After initial appointment, members appointed to this
24 committee shall serve a term of three years, which shall expire on June 30
25 of the last year of such member's term. Appointed members are eligible for
26 reappointment, but shall not serve longer than two successive three-year
27 terms. All vacancies may be filled by appointment for the remainder of the
28 unexpired term and any such appointed member may serve two additional
29 three-year terms.

30 (d) The CISO shall serve as the chair of the CSGFCC, and shall:

31 (A) Serve as the coordinator of cybersecurity state grant fund services
32 and initiatives in the state;

33 (B) implement statewide cybersecurity state grant fund service
34 planning;

35 (C) have authority to administer any cybersecurity state grant fund
36 service as adopted by the council;

37 (D) serve subject to the direction of the council;

38 (E) ensure that policies adopted by the council are carried out;

39 (F) preside over all meetings of the council; and

40 (G) assist the council in effectuating the provisions of this act.

41 (e) The CSGFCC is hereby authorized to adopt rules and regulations
42 necessary to effectuate the provisions of section 8, and amendments
43 thereto, including, but not limited to, creating a uniform reporting form

1 designating how moneys have been spent by cybersecurity state grant fund
2 recipients, setting standards for coordinating and purchasing equipment
3 and recommending standards for training of grant recipient personnel. The
4 chair of the council shall work with the council to develop rules and
5 regulations necessary for the distribution of moneys in the cybersecurity
6 state grant fund. The council shall work with the chair to carry out the
7 provisions of section 8, and amendments thereto. Rules and regulations
8 necessary to begin administration of this act shall be adopted by December
9 31, 2017.

10 (f) Any action of the council pursuant to subsection (e) is subject to
11 review in accordance with the Kansas judicial review act, K.S.A. 77-601 et
12 seq., and amendments thereto.

13 (g) The CISO shall submit an annual report, including a detailed
14 description of all expenditures made from the cybersecurity state fund and
15 the cybersecurity state grant fund, to the joint committee on Kansas
16 security.

17 New Sec. 6. (a) There is hereby established in the state treasury the
18 cybersecurity state fund. All amounts received under this section shall be
19 remitted to the state treasurer in accordance with the provisions of K.S.A.
20 75-4215, and amendments thereto. Upon receipt of each such remittance,
21 the state treasurer shall deposit the entire amount in the state treasury to
22 the credit of the cybersecurity state fund, which shall be administered by
23 the CISO.

24 (b) On June 30 of each year, any unencumbered balance in the
25 cybersecurity state fund that is not required for expenditures during the
26 ensuing fiscal year shall be transferred by the director of accounts and
27 reports from the cybersecurity state fund to the cybersecurity state grant
28 fund established by section 7, and amendments thereto. If the director of
29 accounts and reports transfers any funds pursuant to this subsection, the
30 director shall transmit a copy of such transfer to the director of legislative
31 research and the director of the budget.

32 (c) All payments and disbursements from the cybersecurity state fund
33 shall be made in accordance with appropriation acts upon warrants of the
34 director of accounts and reports issued pursuant to vouchers approved by
35 the CISO or the designee of the CISO.

36 (d) On or before the 10th day of each month, the director of accounts
37 and reports shall transfer from the state general fund to the cybersecurity
38 state fund interest earnings based on: (1) The average daily balance of
39 moneys in the cybersecurity state fund for the preceding month; and (2)
40 the net earnings rate of the pooled money investment portfolio for the
41 preceding month.

42 (e) On July 1, 2017, the chief executive information technology
43 officer shall certify to the director of accounts and reports all unobligated

1 funds remaining in the office of information technology services special
2 revenue funds that are designated by the chief executive information
3 technology officer as cybersecurity fee moneys. Upon receipt of such
4 certification, the director of accounts and reports shall transfer such
5 moneys from the special revenue fund or funds to the cybersecurity state
6 fund. At the same time as the chief executive information technology
7 officer transmits each such certification to the director of accounts and
8 reports, such officer shall transmit a copy of such certification to the
9 director of legislative research and the director of the budget.

10 New Sec. 7. (a) There is hereby established in the state treasury the
11 cybersecurity state grant fund. All amounts received under this section
12 shall be remitted to the state treasurer in accordance with the provisions of
13 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
14 remittance, the state treasurer shall deposit the entire amount in the state
15 treasury to the credit of the cybersecurity state grant fund, which shall be
16 administered by the CISO.

17 (b) All payments and disbursements from the fund shall be made in
18 accordance with appropriation acts upon warrants of the director of
19 accounts and reports issued pursuant to vouchers approved by the CISO or
20 the designee of the CISO.

21 (c) Except as provided further, during any fiscal year, the CISO shall
22 maintain a balance in the cybersecurity state grant fund of not less than
23 \$10,000,000. The CISO may approve vouchers for expenditures of the
24 cybersecurity state grant fund that result in the balance of such fund being
25 less than \$10,000,000 if the CISO determines such funds are necessary to
26 respond to a cybersecurity breach.

27 (d) On or before the 10th day of each month, the director of accounts
28 and reports shall transfer from the state general fund to the cybersecurity
29 state grant fund interest earnings based on: (1) The average daily balance
30 of moneys in the cybersecurity state grant fund for the preceding month;
31 and (2) the net earnings rate of the pooled money investment portfolio for
32 the preceding month.

33 New Sec. 8. (a) The moneys of the cybersecurity state fund and the
34 cybersecurity state grant fund shall be used only for necessary and
35 reasonable costs incurred or to be incurred by the Kansas information
36 security office for the:

- 37 (1) Implementation and delivery of cybersecurity services;
- 38 (2) purchase, maintenance and license fees for cybersecurity and
39 supporting equipment and upgrades;
- 40 (3) purchase, maintenance and license fees for cybersecurity and
41 supporting software and upgrades;
- 42 (4) training of personnel;
- 43 (5) installation, service establishment, start-up charges and monthly

1 recurring charges billed by service suppliers;

2 (6) capital improvements and equipment or other physical
3 enhancements to the cybersecurity program;

4 (7) projects involving the development and implementation of
5 cybersecurity services;

6 (8) cybersecurity consolidation or cost-sharing projects;

7 (9) maintenance of adequate staffing, facilities and support services
8 of the Kansas information security office;

9 (10) projects involving the development and implementation of
10 cybersecurity services for local governmental entities;

11 (11) local governmental entities consolidation or cost-sharing
12 cybersecurity projects;

13 (12) promotion of cybersecurity education;

14 (13) development and implementation of a cybersecurity scholarship
15 program; and

16 (14) cybersecurity self-insurance.

17 (b) If the CSGFCC, based upon information obtained from the
18 Kansas information security office reports or an audit of the Kansas
19 information security office, determines that a local governmental entity has
20 used any state cybersecurity fund moneys for any purposes other than
21 those authorized in this act, the local governmental entity shall repay all
22 such funds used for any unauthorized purposes, plus 10% for deposit in the
23 cybersecurity state grant fund. No such repayment of cybersecurity funds
24 shall be imposed pursuant to this section except upon the written order of
25 the council. Such order shall state the unauthorized purposes for which the
26 funds were used, the amount of funds to be repaid and the right of the local
27 governmental entity to appeal to a hearing before the council. The local
28 governmental entity may, within 15 days after service of the order
29 pursuant to K.S.A. 77-531, and amendments thereto, make a written
30 request to the council for a hearing. Orders of the council under this
31 subsection and hearings shall be subject to the provisions of the Kansas
32 administrative procedure act, K.S.A. 77-501 et seq., and amendments
33 thereto. Any action of the council pursuant to this subsection is subject to
34 review in accordance with the Kansas judicial review act, K.S.A. 77-601 et
35 seq., and amendments thereto.

36 (c) If the CSGFCC determines that the local governmental entity was
37 working in good faith to use the cybersecurity funds for expenditures
38 authorized by this act, no repayment of cybersecurity funds shall be
39 required.

40 New Sec. 9. The Kansas information security office as established
41 under section 4, and amendments thereto, shall be reviewed by the
42 legislature prior to July 1, 2019.

43 Sec. 10. K.S.A. 2016 Supp. 8-145 is hereby amended to read as

1 follows: 8-145. (a) All registration and certificates of title fees shall be
2 paid to the county treasurer of the county in which the applicant for
3 registration resides or has an office or principal place of business within
4 this state, and the county treasurer shall issue a receipt in triplicate, on
5 blanks furnished by the division of vehicles, one copy of which shall be
6 filed in the county treasurer's office, one copy shall be delivered to the
7 applicant and the original copy shall be forwarded to the director of
8 vehicles.

9 (b) The county treasurer shall deposit \$.75 of each license
10 application, \$.75 out of each application for transfer of license plate and \$2
11 out of each application for a certificate of title, collected by such treasurer
12 under this act, in a special fund, which fund is hereby appropriated for the
13 use of the county treasurer in paying for necessary help and expenses
14 incidental to the administration of duties in accordance with the provisions
15 of this law and extra compensation to the county treasurer for the services
16 performed in administering the provisions of this act, which compensation
17 shall be in addition to any other compensation provided by any other law,
18 except that the county treasurer shall receive as additional compensation
19 for administering the motor vehicle title and registration laws and fees, a
20 sum computed as follows: The county treasurer, during the month of
21 December, shall determine the amount to be retained for extra
22 compensation not to exceed the following amounts each year for calendar
23 year 2006 or any calendar year thereafter: The sum of \$110 per hundred
24 registrations for the first 5,000 registrations; the sum of \$90 per hundred
25 registrations for the second 5,000 registrations; the sum of \$5 per hundred
26 for the third 5,000 registrations; and the sum of \$2 per hundred
27 registrations for all registrations thereafter. In no event, however, shall any
28 county treasurer be entitled to receive more than \$15,000 additional annual
29 compensation.

30 If more than one person shall hold the office of county treasurer during
31 any one calendar year, such compensation shall be prorated among such
32 persons in proportion to the number of weeks served. The total amount of
33 compensation paid the treasurer together with the amounts expended in
34 paying for other necessary help and expenses incidental to the
35 administration of the duties of the county treasurer in accordance with the
36 provisions of this act, shall not exceed the amount deposited in such
37 special fund. Any balance remaining in such fund at the close of any
38 calendar year shall be withdrawn and credited to the general fund of the
39 county prior to June 1 of the following calendar year.

40 (c) The county treasurer shall remit the remainder of all such fees
41 collected, together with the original copy of all applications, to the
42 secretary of revenue. The secretary of revenue shall remit all such fees
43 remitted to the state treasurer in accordance with the provisions of K.S.A.

1 75-4215, and amendments thereto. Upon receipt of each such remittance,
2 the state treasurer shall deposit the entire amount in the state treasury to
3 the credit of the state highway fund, except as provided in subsection (d).

4 (d) (1) Three dollars and fifty cents of each certificate of title fee
5 collected and remitted to the secretary of revenue, shall be remitted to the
6 state treasurer who shall credit such \$3.50 to the Kansas highway patrol
7 motor vehicle fund. Three dollars of each certificate of title fee collected
8 and remitted to the secretary of revenue, shall be remitted to the state
9 treasurer who shall credit such \$3 to the VIPS/CAMA technology
10 hardware fund.

11 (2) For repossessed vehicles, \$3 of each certificate of title fee
12 collected and remitted to the secretary of revenue, shall be remitted to the
13 state treasurer who shall credit such \$3 to the repossessed certificates of
14 title fee fund.

15 (3) Three dollars and fifty cents of each reassignment form fee
16 collected and remitted to the secretary of revenue, shall be remitted to the
17 state treasurer who shall credit such \$3.50 to the Kansas highway patrol
18 motor vehicle fund. Three dollars of each reassignment form fee collected
19 and remitted to the secretary of revenue, shall be remitted to the state
20 treasurer who shall credit such \$3 to the VIPS/CAMA technology
21 hardware fund.

22 (4) ~~Until January 1, 2013, \$4~~Four dollars of each division of vehicles
23 modernization surcharge collected and remitted to the secretary of
24 revenue, shall be remitted to the state treasurer who shall credit such \$4 to
25 ~~the division of vehicles modernization fund, on and after January 1, 2013,~~
26 ~~the state treasurer shall credit such \$4 to the state highway fund~~
27 ~~cybersecurity state fund.~~

28 (5) Two dollars of each Kansas highway patrol staffing and training
29 surcharge collected and remitted to the secretary of revenue, shall be
30 remitted to the state treasurer who shall credit such \$2 to the Kansas
31 highway patrol staffing and training fund.

32 (6) One dollar and twenty-five cents of each law enforcement training
33 center surcharge collected and remitted to the secretary of revenue, shall
34 be remitted to the state treasurer who shall credit such \$1.25 to the law
35 enforcement training center fund.

36 Sec. 11. K.S.A. 2016 Supp. 8-145 is hereby repealed.

37 Sec. 12. This act shall take effect and be in force from and after its
38 publication in the statute book.