

Journal of the House

FORTY-FIFTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Tuesday, March 19, 2002, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Aurand in the chair.

The roll was called with 122 members present.

Rep. O'Brien was excused on verified illness.

Reps. Beggs and Stone were excused on excused absence by the Speaker.

Prayer by Chaplain Chamberlain:

O Lord who gives us the food that sustains us, how often we turn to you and ask for "our daily bread." You are the God who knows what we need and who gives to us in such abundance that knowing how to be good stewards of your many blessings presents its own problem.

In your wisdom, you provide our daily bread in the form of flour and water; salt, sugar, butter and yeast. You give us all the ingredients and allow us to form them in a way that is pleasing and good for our bodies. Out of ingredients that can be tasteless and even bitter, comes bread that delights and satisfies us. Could it be that way with the work you require of your servants in this House, O God? Could it be that you have provided all that is needed for the work at hand?

Send the yeast of wisdom and the salt of courage to these your servants. As leaders and legislators struggle to recognize true needs and balance diverse desires and demands, grant them patience and skill for the work. Let the struggle of negotiation and compromise knead the loaf into one that can be appreciated by all your children, especially those most hungry and in need.

To you, O giver of our daily bread, we pray, Amen.

The Pledge of Allegiance was led by Rep. Humerickhouse.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill appearing on the Calendar of March 18 as "To Be Referred," was referred to committee as indicated:

Judiciary: **HB 3024**.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following resolution was referred to committee as indicated:

Utilities: **HR 6010**.

MESSAGES FROM THE GOVERNOR

HB 2656 approved on March 18, 2002.

CONSENT CALENDAR

Objection was made to **SB 446** appearing on the Consent Calendar; the was bill placed on the calendar under the heading of General Orders.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2666. An act concerning autopsies; relating to payment; amending K.S.A. 22a-242 and 22a-245 and K.S.A. 2001 Supp. 65-2418 and repealing the existing sections; also repealing K.S.A. 2001 Supp. 65-2418a, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 4; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Howell, Klein, Loyd, Spangler.

Present but not voting: None.

Absent or not voting: Beggs, O'Brien, Stone.

The bill passed, as amended.

HB 2764. An act concerning the Kansas senior care act; relating to allocations for area agencies on aging; amending K.S.A. 75-5929, 75-5930, 75-5931, 75-5932 and 75-5933 and K.S.A. 2001 Supp. 75-5928 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: Beggs, O'Brien, Stone.

The bill passed, as amended.

HB 2949. An act concerning cities and counties; relating to transportation development districts; amending K.S.A. 25-432 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 68; Nays 54; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Benlon, Bethell, Boston, Campbell, Compton, Cook, Cox, Crow, Dahl, Dillmore, DiVita, Dreher, Findley, Flaharty, Garner, Gatewood, Gilbert, Glasscock, Gordon, Hayzlett, Hermes, Horst, Huff, Humerickhouse, Kirk, Krehbiel, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, Mason, McClure, McKinney, Merrick, Judy Morrison, Newton, O'Neal, Owens, Patterson, Pauls, E. Peterson, J.

Peterson, Ray, Rehorn, Ruff, Showalter, Shriver, Shultz, Sloan, Storm, Swenson, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Weber, Welshimer, Wilk, D. Williams.

Nays: Burroughs, DeCastro, Edmonds, Faber, Feuerborn, Flora, Freeborn, Goering, Grant, Henderson, Henry, Holmes, Howell, Huebert, Hutchins, Huy, Johnson, Kauffman, Klein, Kuether, Landwehr, M. Long, P. Long, Loyd, Mayans, Mays, McCreary, McLeland, Miller, Minor, Jim Morrison, Myers, Neufeld, Nichols, Novascone, Osborne, Ostmeyer, Palmer, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Reardon, Schwartz, Sharp, Spangler, Tafanelli, Vickrey, Wells, J. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Beggs, O'Brien, Stone.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: Had **HB 2949** been brought to the tax committee, it would have been DOA!

Cities and counties already have the authority to levy taxes for these purposes; they should be directly accountable for such spending. **HB 2949** would allow them to indirectly boost their taxing authority and attribute the tax and spending increases to some other government entity. This ranks minus 6 on the Richter Scale! I vote No!—TED POWERS

SB 95, An act enacting the interstate compact for adult offenders supervision; repealing K.S.A. 22-4101, 22-4102 and 22-4103, was considered on final action.

On roll call, the vote was: Yeas 96; Nays 26; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cox, Crow, DeCastro, Dillmore, Dreher, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huff, Humerickhouse, Johnson, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, McClure, McLeland, Merrick, Minor, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Owens, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, T. Powell, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Sloan, Storm, Swenson, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Cook, Dahl, DiVita, Edmonds, Faber, Howell, Huebert, Hutchins, Huy, Kauffman, Mason, Mayans, Mays, McCreary, McKinney, Miller, Jim Morrison, Osborne, Ostmeyer, Palmer, L. Powell, Powers, Pyle, Shultz, Spangler, Tafanelli.

Present but not voting: None.

Absent or not voting: Beggs, O'Brien, Stone.

The bill passed, as amended.

SB 398, An act concerning securities; relating to the regulation thereof; concerning the powers of the securities commissioner; amending K.S.A. 17-1257, 17-1258 and 17-1266a and K.S.A. 2001 Supp. 17-1252, 17-1254, 17-1261, 17-1263 and 17-1270 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 121; Nays 1; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Storm, Swenson, Tafanelli,

Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Spangler.

Present but not voting: None.

Absent or not voting: Beggs, O'Brien, Stone.

The bill passed.

SB 444, An act concerning civil procedure for limited actions; relating to evictions; form of summons; amending K.S.A. 2001 Supp. 61-3803 and 61-3805 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 121; Nays 1; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Spangler.

Present but not voting: None.

Absent or not voting: Beggs, O'Brien, Stone.

The bill passed, as amended.

SB 445, An act concerning civil procedure; relating to liens; amending K.S.A. 2001 Supp. 60-2418, 84-9-102 and 84-9-201 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: Beggs, O'Brien, Stone.

The bill passed, as amended.

SB 470, An act concerning the bank commissioner; creating certain positions in the unclassified service, was considered on final action.

On roll call, the vote was: Yeas 75; Nays 46; Present but not voting: 1; Absent or not voting: 3.

Yeas: Aday, Aurand, Ballard, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Dahl, DeCastro, DiVita, Dreher, Edmonds, Faber, Flora, Freeborn, Glasscock, Gordon, Hayzlett, Holmes, Horst, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauff-

man, Klein, Krehbiel, Landwehr, Lane, Light, Lightner, Lloyd, P. Long, Loyd, Mason, Mays, McCreary, McLeland, Merrick, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pottorff, L. Powell, T. Powell, Powers, Ray, Rehorn, Sharp, Showalter, Shultz, Sloan, Swenson, Tafanelli, Tanner, Tomlinson, Toplikar, Weber, Wilk, D. Williams.

Nays: Ballou, Barnes, Crow, Dillmore, Feuerborn, Findley, Flaharty, Garner, Gatewood, Gilbert, Goering, Grant, Henderson, Henry, Howell, Huebert, Kirk, Kuether, Larkin, Levinson, Loganbill, M. Long, Mayans, McClure, McKinney, Miller, Nichols, Pauls, E. Peterson, J. Peterson, Phelps, Pyle, Reardon, Ruff, Schwartz, Shriver, Spangler, Storm, Thimesch, R. Toelkes, Vickrey, Wells, Welshimer, J. Williams, Wilson, Winn.

Present but not voting: Hermes.

Absent or not voting: Beggs, O'Brien, Stone.

The bill passed, as amended.

SB 502. An act concerning elections; relating to nominating petitions and voting information; relating to clean up amendments; amending K.S.A. 25-2020, 25-2110, 25-2110a, 25-2706, 25-4005 and 25-4324 and K.S.A. 2001 Supp. 25-2316c and 25-3102 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 121; Nays 1; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glascock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Spangler.

Present but not voting: None.

Absent or not voting: Beggs, O'Brien, Stone.

The bill passed, as amended.

On motion of Rep. Weber, the House went into Committee of the Whole, with Rep. O'Neal in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. O'Neal, Committee of the Whole report, as follows, was adopted:

Recommended that committee report to **HB 2711** be adopted; also, on motion of Rep. T. Powell be amended on page 2, after line 6, by inserting:

“(b) “Euthanasia” means an act that is directly intended to cause the death of a person with an illness or disability. “Euthanasia” does not include the administration of pain medication or other acts or omissions which may have an unintended side-effect of hastening death.”;

By renumbering the remaining subsections accordingly;

Rep. Swenson requested unanimous consent to be removed as a sponsor to **HB 2711**. There was no objection.

Also, on motion of Rep. Swenson to amend **HB 2711**, Rep. T. Powell requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment germane. The question reverted back to the motion of Rep. Swenson to amend on page 1, following line 35, by inserting new material to read as follows:

“(a) “Appropriate and medically necessary” means the standard for health care services as determined by physicians and health care providers in accordance with the prevailing practices and standards of the medical profession.

(b) “Emergency service system” shall have the meaning ascribed to it in K.S.A. 65-6112, and amendments thereto.

(c) For the purposes of this section, “emergency telephone service” shall have the meaning ascribed to it in K.S.A. 12-5301 and amendments thereto.”;

Also on page 1, in line 36, by striking “(a)” and inserting “(d)”;

On page 2, following line 6, by inserting new material to read as follows:

“(e) “Enrollee” means an individual who is enrolled in a health benefit plan, including covered dependents.

(f) “Health benefit plan” shall have the meaning ascribed to it in K.S.A. 40-4602, and amendments thereto.”;

Also on page 2, in line 7, by striking “(b)” and inserting “(g)”;

in line 12, by striking “(c)” and inserting “(h)”;

in line 18, by striking “(d)” and inserting “(i)”;

in line 24, by striking “(e)” and inserting “(j)”;

following line 33, by inserting:

“(k) “Health care treatment decision” means a determination made when medical services are to be provided by the health care plan and a decision which affects the quality of the diagnosis, care or treatment provided to any insured or enrollee of such plan.

(l) “Health insurer” shall have the meaning ascribed to it in K.S.A. 40-4602, and amendments thereto.”;

Also on page 2, in line 34, by striking “(f)” and inserting “(m)”;

in line 43, by striking “(g)” and inserting “(n)”;

On page 3, following line 4, by inserting:

“(o) “Ordinary care” means, in the case of a health insurer, that degree of care that a health insurer of ordinary prudence would use under the same or similar circumstances. In the case of a person who is an employee, agent, ostensible agent, or representative of a health insurer, “ordinary care” means that degree of care that a person of ordinary prudence in the same profession, specialty or area of practice as such person would use in the same or similar circumstances.”;

Also on page 3, in line 5, by striking “(h)” and inserting “(p)”;

in line 9, by striking “(i)” and inserting “(q)”;

in line 11, by striking “(j)” and inserting “(r)”;

following line 14, by inserting:

“(s) “Physician” shall have the meaning ascribed to it in K.S.A. 40-4602, and amendments thereto.

(t) “Provider” shall have the meaning ascribed to it in K.S.A. 40-4602, and amendments thereto.”;

Also on page 3, in line 15, by striking “(k)” and inserting “(u)”;

On page 4, by striking all in line 11 through 17; in line 18, by striking “(d)”;

By renumbering the remaining sections accordingly;

On page 6, following line 7, by inserting new material to read as follows:

“Sec. 9. (a) A health insurer for a health benefit plan has the duty to exercise ordinary care when making health care treatment decisions and is liable for damages for harm to an insured or enrollee caused by its failure to exercise such ordinary care.

(b) A health insurer for a health benefit plan is also liable for damages for harm to an insured or enrollee caused by the health care treatment decisions made by its:

- (1) Employees;
- (2) agents;
- (3) ostensible agents; or
- (4) representatives who are acting on its behalf and over whom it has the right to exercise influence or control or has actually exercised influence or control which result in the failure to exercise ordinary care.

(c) It shall be a defense to any action asserted against a health insurer for a health benefit plan that:

- (1) Neither the health insurer, nor any employee, agent, ostensible agent, or representative for whose conduct such health insurer is liable under subsection (b), controlled, influenced or participated in the health care treatment decision; and

(2) the health insurer did not deny or delay any treatment prescribed or recommended by a provider to the insured or enrollee.

(d) The standards in subsections (a) and (b) create no obligation on the part of the health insurer to provide to an insured or enrollee treatment which is not covered by the health care benefit plan of the entity.

(e) This act does not create any liability on the part of an employer, an employer group purchasing organization, or a pharmacy licensed under K.S.A. 65-1626 *et seq.*, and amendments thereto, that purchases coverage or assumes risk on behalf of its employees.

(f) A health insurer may not remove a provider from its plan or refuse to renew the provider with its plan for advocating on behalf of an enrollee for appropriate and medically necessary health care for the enrollee.

(g) A health insurer shall not enter into a contract with a provider or pharmaceutical company which includes an indemnification or hold harmless clause for the acts or conduct of the health insurer. Any such indemnification or hold harmless clause in an existing contract is hereby declared void as being against public policy.

(h) Nothing in any law of this state prohibiting a health insurer from practicing medicine or being licensed to practice medicine may be asserted as a defense by such health insurer in an action brought against it pursuant to this section or any other law.

(i) In an action against a health insurer, a finding that a physician or other health benefit plan is an employee, agent, ostensible agent, or representative of such health insurer shall not be based solely on proof that such person's name appears in a listing of participating providers made available to any insured or enrollee under a health benefit plan.

(j) This act does not apply to workers' compensation insurance coverage as defined in K.S.A. 44-501 *et seq.*, and amendments thereto.

Sec. 10. (a) A person may not maintain a cause of action under this act against a health insurer that is required to comply with the utilization review requirements of K.S.A. 40-2213 through 40-2216, and amendments thereto, unless the affected insured or enrollee or the insured's or enrollee's representative:

(1) Has exhausted the appeals and review applicable under the utilization review requirements; or

(2) before instituting the action:

(A) Gives written notice of the claim as provided by subsection (b); and

(B) agrees to submit the claim to a review by an independent review organization under K.S.A. 40-2213 through 40-2216, and amendments thereto, as required by subsection (c).

(b) The notice required by paragraph (2) of subsection (a) shall be delivered or mailed to the health insurer against whom the action is made not later than the 30th day before the date the claim is filed.

(c) The insured or enrollee or the insured's or enrollee's representative shall submit the claim to a review by an independent review organization if the health insurer against whom the claim is made requests the review not later than the 14th day after the date notice under paragraph (2) of subsection (a) is received by the health insurer. If the health insurer does not request the review within the period specified by this subsection, the insured or enrollee or the insured's or enrollee's representative is not required to submit the claim to independent review before maintaining the action.

(d) A review conducted under subsection (c) as requested by a health insurer shall be performed in accordance with K.S.A. 40-2213 through 40-2216, and amendments thereto. The health insurer requesting the review shall agree to comply with K.S.A. 40-2213 through 40-2216, and amendments thereto.

(e) Subject to subsection (f), if the enrollee has not complied with subsection (a), an action under this section shall not be dismissed by the court, but the court may, in its discretion, order the parties to submit to an independent review or mediation or other nonbinding alternative dispute resolution and may abate the action for a period of not to exceed 30 days for such purposes. Such orders of the court shall be the sole remedy available to a party complaining of an enrollee's failure to comply with subsection (a).

(f) The enrollee is not required to comply with subsection (c) and no abatement or other order pursuant to subsection (e) for failure to comply shall be imposed if the enrollee has filed a pleading alleging in substance that:

(1) Harm to the enrollee has already occurred because of the conduct of the health insurer or because of an act or omission of an employee, agent, ostensible agent, or representative of such health insurer, as set forth in subsection (b) of section 9, and amendments thereto, for whose conduct it is liable; and

(2) the review would not be beneficial to the enrollee, unless the court, upon motion by a defendant health insurer finds after hearing that such pleading was not made in good faith, in which case the court may enter an order pursuant to subsection (d).

(g) If the insured or enrollee or the insured's or enrollee's representative seeks to exhaust the appeals and review or provides notice, as required by subsection (a), before the statute of limitations applicable to a claim against a health insurer has expired, the limitations period is tolled until the later of:

(1) The 30th day after the date the insured or enrollee or the insured's or enrollee's representative has exhausted the process for appeals and review applicable under the utilization review requirements; or

(2) the 40th day after the date the insured or enrollee or the insured's or enrollee's representative gives notice under paragraph (2) of subsection (a).

(h) This section does not prohibit an insured or enrollee from pursuing any other appropriate remedy or relief available under law, if the requirement of exhausting the process for appeal and review places the insured's or enrollee's health in serious jeopardy.

Sec. 11. The provisions of sections 9 through 10, and amendments thereto, shall apply only to any cause of action which accrues on and after the effective date of this act. Any action which accrued prior to the effective date of this act shall be governed by the law applicable to such cause of action on the day preceding the effective date of this act.

Sec. 12. (a) For the purposes of this section, "emergency medical condition" means a medical condition that manifests itself by symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected by a prudent layperson, who possesses an average knowledge of health and medicine, to result in:

(1) Placing the patient's health in serious jeopardy;

(2) serious impairment to bodily functions; or

(3) serious dysfunction of any bodily organ or part.

(b) No health insurer shall require an insured or enrollee to obtain prior authorization before accessing the 911 system or any emergency medical system for an emergency medical condition.

(c) No health insurer shall prohibit any insured or enrollee from accessing any emergency telephone service or any emergency medical service for an emergency medical condition.";

By renumbering the remaining sections accordingly;

Roll call was demanded.

On roll call, the vote was: Yeas 55; Nays 65; Present but not voting: 0; Absent or not voting: 5.

Yeas: Ballard, Barnes, Benlon, Burroughs, Compton, Cox, Crow, Dillmore, Edmonds, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Goering, Grant, Henderson, Henry, Huff, Johnson, Kirk, Klein, Kuether, Lane, Larkin, Levinson, Loganbill, M. Long, McClure, McKinney, Minor, Jim Morrison, Newton, Nichols, Pauls, E. Peterson, Phelps, Pottorff, Reardon, Rehorn, Ruff, Sharp, Showalter, Shriver, Sloan, Storm, Swenson, Tanner, R. Toelkes, Wells, Welshimer, Wilson, Winn.

Nays: Aday, Aurand, Ballou, Bethell, Boston, Campbell, Cook, Dahl, DeCastro, DiVita, Dreher, Faber, Freeborn, Glasscock, Gordon, Hayzlett, Hermes, Holmes, Howell, Huebert, Humerickhouse, Hutchins, Huy, Kauffman, Krehbiel, Landwehr, Light, Lightner, Lloyd, P. Long, Loyd, Mason, Mayans, Mays, McCreary, McLeland, Merrick, Miller, Judy Morrison, Myers, Neufeld, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, J. Peterson, L. Powell, T. Powell, Powers, Pyle, Ray, Schwartz, Shultz, Tafanelli, Thimesch, Tomlinson, Toplikar, Vickrey, Weber, Wilk, D. Williams, J. Williams.

Present but not voting: None.

Absent or not voting: Beggs, Horst, O'Brien, Spangler, Stone.

The motion of Rep. Swenson did not prevail.

Also, roll call was demanded on motion of Rep. Rehorn to amend **HB 2711** on page 2, in lines 16 and 17, by striking “, infanticide, assisting suicide, euthanasia”;

On roll call, the vote was: Yeas 38; Nays 76; Present but not voting: 0; Absent or not voting: 11.

Yeas: Ballard, Barnes, Benlon, Cox, Crow, Dreher, Findley, Flaharty, Garner, Gilbert, Goering, Gordon, Henderson, Hermes, Huff, Johnson, Kirk, Krehbiel, Kuether, Lane, Levinson, Loganbill, Loyd, Minor, Newton, E. Peterson, Ray, Rehorn, Ruff, Sharp, Sloan, Storm, Swenson, Tanner, R. Toelkes, Wells, Welshimer, Winn.

Nays: Aday, Aurand, Ballou, Bethell, Boston, Campbell, Compton, Cook, Dahl, DeCastro, Dillmore, DiVita, Edmonds, Faber, Feuerborn, Freeborn, Gatewood, Glasscock, Grant, Hayzlett, Henry, Holmes, Horst, Howell, Huebert, Humerickhouse, Hutchins, Huy, Kauffman, Landwehr, Larkin, Light, Lightner, Lloyd, M. Long, P. Long, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, O’Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Reardon, Schwartz, Shriver, Tafanelli, Thimesch, Tomlinson, Toplikar, Vickrey, Weber, Wilk, D. Williams, J. Williams, Wilson.

Present but not voting: None.

Absent or not voting: Beggs, Burroughs, Flora, Klein, Mason, Nichols, O’Brien, Showalter, Shultz, Spangler, Stone.

The motion of Rep. Rehorn did not prevail.

Also, on motion of Rep. Tanner **HB 2711** be amended on page 6, after line 2, by inserting: “Sec. 9. Nothing in this act shall be construed to relieve any health care provider from civil or criminal liability or administrative action for the unlawful or negligent practice of a health care profession.”;

By renumbering the remaining sections accordingly;

Also, roll call was demanded on motion of Rep. Kirk to amend **HB 2711** on page 1, in line 36, by striking all after “means”; by striking all in lines 37 through 39; in line 40, by striking all before “any”;

On page 4, in line 23, by striking all after “Sec. 7.”; by striking all in lines 24 through 39 and relettering the remaining subsections accordingly;

On page 5, in line 8, by striking “subsections (a) and (b)” and inserting “subsection (a)”; in lines 13 and 14, by striking “paragraph (a), (b) or (c)” and inserting “subsection (a) or (b)”; by striking all in lines 25 through 34;

On roll call, the vote was: Yeas 48; Nays 64; Present but not voting: 0; Absent or not voting: 13.

Yeas: Aurand, Ballard, Ballou, Barnes, Benlon, Compton, Cox, Crow, Dillmore, Dreher, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Henderson, Horst, Huff, Johnson, Kirk, Krehbiel, Kuether, Lane, Levinson, Loganbill, Loyd, Minor, Newton, Nichols, E. Peterson, Ray, Rehorn, Ruff, Sharp, Showalter, Sloan, Storm, Swenson, Tanner, R. Toelkes, Tomlinson, Wells, Welshimer, Winn.

Nays: Aday, Bethell, Boston, Campbell, Cook, Dahl, DeCastro, Edmonds, Faber, Feuerborn, Freeborn, Grant, Hayzlett, Henry, Holmes, Howell, Huebert, Humerickhouse, Hutchins, Huy, Kauffman, Klein, Landwehr, Larkin, Light, Lightner, Lloyd, P. Long, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, O’Neal, Ostmeyer, Owens, Palmer, Patterson, Pauls, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Schwartz, Shriver, Tafanelli, Thimesch, Toplikar, Vickrey, Weber, Wilk, D. Williams, J. Williams, Wilson.

Present but not voting: None.

Absent or not voting: Beggs, Burroughs, DiVita, Hermes, M. Long, Mason, Merrick, O’Brien, Osborne, Reardon, Shultz, Spangler, Stone.

The motion of Rep. Kirk did not prevail.

Also, roll call was demanded on motion of Rep. Storm to amend **HB 2711** on page 2, by striking all in line 14;

On roll call, the vote was: Yeas 60; Nays 60; Present but not voting: 0; Absent or not voting: 5.

Yeas: Ballard, Barnes, Benlon, Bethell, Compton, Cox, Crow, Dillmore, Dreher, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Henderson, Hermes, Horst, Huff, Johnson, Kirk, Klein, Krehbiel, Kuether, Lane, Levinson, Loganbill, Loyd, McClure, McKinney, Minor, Newton, Nichols, Owens, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, Ray, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Sloan, Storm, Swenson, Tanner, R. Toelkes, Tomlinson, Wells, Welshimer, Wilson, Winn.

Nays: Aday, Aurand, Ballou, Boston, Burroughs, Campbell, Cook, Dahl, DeCastro, DiVita, Edmonds, Faber, Feuerborn, Freeborn, Grant, Hayzlett, Henry, Holmes, Howell, Huebert, Humerickhouse, Hutchins, Huy, Kauffman, Landwehr, Larkin, Light, Lightner, Lloyd, M. Long, P. Long, Mason, Mayans, Mays, McCreary, McLeland, Merrick, Miller, Jim Morrison, Judy Morrison, Myers, Novascone, O'Neal, Osborne, Ostmeyer, Palmer, L. Powell, T. Powell, Powers, Pyle, Reardon, Shultz, Tafanelli, Thimesch, Toplikar, Vickrey, Weber, Wilk, D. Williams, J. Williams.

Present but not voting: None.

Absent or not voting: Beggs, Neufeld, O'Brien, Spangler, Stone.

The motion of Rep. Storm did not prevail.

Also, roll call was demanded on further motion of Rep. Storm to amend **HB 2711** on page 2, in line 14, after "purpose" by inserting "other than emergency contraception for women treated for rape";

On roll call, the vote was: Yeas 52; Nays 65; Present but not voting: 0; Absent or not voting: 8.

Yeas: Ballard, Barnes, Benlon, Bethell, Compton, Cox, Crow, Dillmore, Dreher, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Goering, Gordon, Henderson, Horst, Huff, Johnson, Kirk, Klein, Krehbiel, Kuether, Lane, Levinson, Lloyd, Loganbill, Loyd, Minor, Newton, Nichols, E. Peterson, J. Peterson, Pottorff, Ray, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Sloan, Storm, Swenson, Tanner, R. Toelkes, Tomlinson, Wells, Welshimer, Winn.

Nays: Aday, Aurand, Ballou, Boston, Burroughs, Campbell, Cook, Dahl, DeCastro, DiVita, Edmonds, Faber, Feuerborn, Freeborn, Glasscock, Grant, Hayzlett, Henry, Holmes, Howell, Huebert, Humerickhouse, Hutchins, Huy, Kauffman, Landwehr, Larkin, Light, Lightner, P. Long, Mason, Mayans, Mays, McClure, McKinney, McLeland, Merrick, Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, Phelps, L. Powell, T. Powell, Powers, Pyle, Reardon, Tafanelli, Thimesch, Toplikar, Vickrey, Weber, Wilk, D. Williams, J. Williams, Wilson.

Present but not voting: None.

Absent or not voting: Beggs, Hermes, M. Long, McCreary, O'Brien, Shultz, Spangler, Stone.

The motion of Rep. Storm did not prevail.

Also, on motion of Rep. Kuether **HB 2711** be amended on page 6, after line 2, by inserting:

"Sec. 9. Nothing in this act shall be construed to excuse any health care provider from complying with:

(a) Any "do not resuscitate" directive or order which is valid under K.S.A. 2001 Supp. 65-4941 through 65-4948, and amendments thereto; or

(b) any declaration directing the withholding or withdrawal of life-sustaining procedures which is valid under K.S.A. 65-28,101 through 65-28,109, and amendments thereto.";

By renumbering the remaining sections accordingly;

Also, roll call was demanded on motion of Rep. Showalter to amend **HB 2711** on page 4, in line 29, by striking all after "available"; by striking all in lines 30 through 34; in line 35, by striking all before "or" and inserting "unless the health care provider gives the employer written notice of the provider's objection to participating in the provision of such health care service prior to such provider's employment, within 30 days after enactment of this act"; by striking all in lines 37 and 38; in line 39, by striking all before the period and inserting ", whichever is latest";

On roll call, the vote was: Yeas 63; Nays 55; Present but not voting: 0; Absent or not voting: 7.

Yeas: Aurand, Ballard, Ballou, Barnes, Benlon, Bethell, Boston, Burroughs, Compton, Cox, Crow, Dillmore, Dreher, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Henderson, Hermes, Horst, Huff, Humerickhouse, Johnson, Kirk, Klein, Krehbiel, Kuether, Lane, Levinson, Light, Loganbill, Loyd, Minor, Newton, Nichols, Owens, Patterson, E. Peterson, J. Peterson, Pottorff, Ray, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Sloan, Storm, Swenson, Tanner, R. Toelkes, Tomlinson, Wells, Welshimer, Wilson, Winn.

Nays: Aday, Campbell, Cook, Dahl, DeCastro, DiVita, Edmonds, Faber, Feuerborn, Freeborn, Hayzlett, Henry, Holmes, Howell, Huebert, Hutchins, Huy, Kauffman, Landwehr, Larkin, Lightner, P. Long, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, O'Neal, Osborne, Ostmeyer, Palmer, Pauls, Phelps, L. Powell, T. Powell, Powers, Pyle, Reardon, Tafanelli, Thimesch, Toplikar, Vickrey, Weber, Wilk, D. Williams, J. Williams.

Present but not voting: None.

Absent or not voting: Beggs, Lloyd, M. Long, O'Brien, Shultz, Spangler, Stone.

The motion of Rep. Showalter prevailed.

Also, on motion of Rep. Kirk to amend **HB 2711**, the motion did not prevail.

Also, roll call was demanded on motion of Rep. E. Peterson to amend **HB 2711** on page 6, after line 2, by inserting:

"Sec. 9. Nothing in this act shall be construed as excusing any health care provider, health care institution or health care payer from liability for refusing to participate in the provision of, or pay for, vaccinations.";

By renumbering the remaining sections accordingly;

On roll call, the vote was: Yeas 56; Nays 60; Present but not voting: 0; Absent or not voting: 9.

Yeas: Ballard, Barnes, Benlon, Bethell, Compton, Cox, Crow, Dillmore, Dreher, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Henderson, Hermes, Horst, Huff, Johnson, Kirk, Krehbiel, Kuether, Lane, Levinson, Lloyd, Loganbill, Loyd, McClure, McKinney, Minor, Newton, Nichols, Owens, Patterson, E. Peterson, J. Peterson, Pottorff, Ray, Reardon, Rehorn, Ruff, Showalter, Sloan, Storm, Swenson, Tanner, R. Toelkes, Tomlinson, Wells, Welshimer, Winn.

Nays: Aday, Aurand, Ballou, Boston, Campbell, Cook, Dahl, DeCastro, DiVita, Edmonds, Faber, Freeborn, Grant, Hayzlett, Henry, Holmes, Howell, Huebert, Humerickhouse, Hutchins, Huy, Kauffman, Klein, Landwehr, Larkin, Light, Lightner, P. Long, Mason, Mayans, Mays, McCreary, McLeland, Merrick, Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Novascone, O'Neal, Ostmeyer, Palmer, Pauls, Phelps, L. Powell, T. Powell, Powers, Pyle, Schwartz, Shultz, Tafanelli, Thimesch, Toplikar, Vickrey, Weber, Wilk, D. Williams, J. Williams, Wilson.

Present but not voting: None.

Absent or not voting: Beggs, Burroughs, M. Long, O'Brien, Osborne, Sharp, Shriver, Spangler, Stone.

The motion of Rep. E. Peterson did not prevail.

Also, roll call was demanded on motion to recommend **HB 2711** favorably for passage.

On roll call, the vote was: Yeas 67; Nays 45; Present but not voting: 0; Absent or not voting: 13.

Yeas: Aday, Ballou, Barnes, Bethell, Boston, Burroughs, Campbell, Cook, Dahl, DeCastro, DiVita, Edmonds, Faber, Feuerborn, Freeborn, Gatewood, Grant, Hayzlett, Holmes, Howell, Huebert, Humerickhouse, Hutchins, Huy, Kauffman, Klein, Landwehr, Larkin, Lightner, Lloyd, P. Long, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Jim Morrison, Judy Morrison, Myers, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Pauls, Phelps, L. Powell, T. Powell, Powers, Pyle, Reardon, Ruff, Schwartz, Tafanelli, Thimesch, Toplikar, Vickrey, Weber, D. Williams, J. Williams, Wilson, Winn.

Nays: Aurand, Ballard, Benlon, Compton, Cox, Crow, Dillmore, Dreher, Findley, Flaharty, Flora, Garner, Gilbert, Glasscock, Goering, Gordon, Henderson, Hermes, Horst, Huff, Johnson, Kirk, Krehbiel, Kuether, Lane, Levinson, Loganbill, M. Long, Loyd, Minor,

Newton, Patterson, E. Peterson, Ray, Rehorn, Sharp, Showalter, Sloan, Storm, Swenson, Tanner, R. Toelkes, Tomlinson, Wells, Welshimer.

Present but not voting: None.

Absent or not voting: Beggs, Henry, Light, Neufeld, Nichols, O'Brien, J. Peterson, Pottorff, Shriver, Shultz, Spangler, Stone, Wilk.

The motion prevailed and **HB 2711** be passed as amended.

REPORTS OF STANDING COMMITTEES

The Committee on **Business, Commerce and Labor** recommends **SB 440**, as amended by Senate Committee, be amended on page 4, in line 35, by striking "associated" and inserting "associates"; in line 38, after the first "the" by inserting "completed";

On page 6, in line 25, after the first "the" by inserting "completed"; and the bill be passed as amended.

The Committee on **Federal and State Affairs** recommends **HB 2797** be passed.

The Committee on **Federal and State Affairs** recommends **HCR 5051** be adopted.

The Committee on **Federal and State Affairs** recommends **HB 3006** be amended on page 3, in line 41, by striking "at" and inserting ": (A) At"; in line 43, following the semicolon, by inserting "or (B) at least two years of equivalent military education and training, as determined in accordance with rules and regulations adopted by the attorney general;";

On page 4, in line 1, by striking "subsection (d)" and inserting "subsections (d) and (e)"; following line 19, by inserting:

"(e) Instead of the experience required pursuant to subsection (c)(6), an applicant shall receive one year's credit for each year of equivalent military experience, as determined in accordance with rules and regulations adopted by the attorney general, within the five-year period immediately preceding the date of application.";

Also on page 4, in line 20, by striking "(e)" and inserting "(f)";

On page 5, in line 4, by striking "(f)" and inserting "(g)"; following line 8, by inserting:

"(h) The requirements of subsections (c)(5) and (c)(6) shall not apply to:

(1) Any individual who, on June 30, 2002, held a valid license issued under this act and has held a valid license continuously since that date; or

(2) any individual who, on June 30, 2002, was an officer, director, partner or associate of an organization which, on June 30, 2002, held a valid license issued under this act, if such individual has continuously held a position of officer, director, partner or associate of such organization since that date."; and the bill be passed as amended.

The Committee on **Judiciary** recommends **SB 392** be amended on page 2, after line 19, by inserting the following:

"Sec. 2. K.S.A. 8-1002 is hereby amended to read as follows: 8-1002. (a) Whenever a test is requested pursuant to this act and results in either a test failure or test refusal, a law enforcement officer's certification shall be prepared. If the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, a separate certification pursuant to K.S.A. 8-2,145 and amendments thereto shall be prepared in addition to any certification required by this section. The certification required by this section shall be signed by one or more officers to certify:

(1) With regard to a test refusal, that: (A) There existed reasonable grounds to believe the person was operating or attempting to operate a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, or is under 21 years of age while having alcohol or other drugs in such person's system; (B) the person had been placed under arrest, was in custody or had been involved in a vehicle accident or collision; (C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto; and (D) the person refused to submit to and complete a test as requested by a law enforcement officer.

(2) With regard to a test failure, that: (A) There existed reasonable grounds to believe the person was operating a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, or is under 21 years of age while having alcohol or other drugs in such person's system; (B) the person had been placed under arrest, was

in custody or had been involved in a vehicle accident or collision; (C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto; and (D) the result of the test showed that the person had an alcohol concentration of .08 or greater in such person's blood or breath.

(3) With regard to failure of a breath test, in addition to those matters required to be certified under subsection (a)(2), that: (A) The testing equipment used was certified by the Kansas department of health and environment; (B) the testing procedures used were in accordance with the requirements set out by the Kansas department of health and environment; and (C) the person who operated the testing equipment was certified by the Kansas department of health and environment to operate such equipment.

(b) For purposes of this section, certification shall be complete upon signing, and no additional acts of oath, affirmation, acknowledgment or proof of execution shall be required. The signed certification or a copy or photostatic reproduction thereof shall be admissible in evidence in all proceedings brought pursuant to this act, and receipt of any such certification, copy or reproduction shall accord the department authority to proceed as set forth herein. Any person who signs a certification submitted to the division knowing it contains a false statement is guilty of a class B nonperson misdemeanor.

(c) When the officer directing administration of the testing determines that a person has refused a test and the criteria of subsection (a)(1) have been met or determines that a person has failed a test and the criteria of subsection (a)(2) have been met, the officer shall serve upon the person notice of suspension of driving privileges pursuant to K.S.A. 8-1014, and amendments thereto. If the determination is made while the person is still in custody, service shall be made in person by the officer on behalf of the division of vehicles. In cases where a test failure is established by a subsequent analysis of a breath, blood or urine sample, the officer shall serve notice of such suspension in person or by another designated officer or by mailing the notice to the person at the address provided at the time of the test. *Within five days after the date of service of a copy of the law enforcement officer's certification and notice of suspension, the officer's certification and notice of suspension shall be forwarded to the division.*

(d) In addition to the information required by subsection (a), the law enforcement officer's certification and notice of suspension shall contain the following information: (1) The person's name, driver's license number and current address; (2) the reason and statutory grounds for the suspension; (3) the date notice is being served and a statement that the effective date of the suspension shall be the 30th calendar day after the date of service; (4) the right of the person to request an administrative hearing; and (5) the procedure the person must follow to request an administrative hearing. The law enforcement officer's certification and notice of suspension shall also inform the person that all correspondence will be mailed to the person at the address contained in the law enforcement officer's certification and notice of suspension unless the person notifies the division in writing of a different address or change of address. The address provided will be considered a change of address for purposes of K.S.A. 8-248, and amendments thereto, if the address furnished is different from that on file with the division.

~~(e) If a person refuses a test or if a person is still in custody when it is determined that the person has failed a test, the officer shall take any license in the possession of the person and, if the license is not expired, suspended, revoked or canceled, shall issue a temporary license effective until the 30th calendar day after the date of service set out in the law enforcement officer's certification and notice of suspension. If the test failure is established by a subsequent analysis of a breath or blood sample, the temporary license shall be served together with the copy of the law enforcement officer's certification and notice of suspension. A temporary license issued pursuant to this subsection shall bear the same restrictions and limitations as the license for which it was exchanged. Within five days after the date of service of a copy of the law enforcement officer's certification and notice of suspension the officer's certification and notice of suspension, along with any licenses taken, shall be forwarded to the division.~~

(f) (e) Upon receipt of the law enforcement officer's certification, the division shall review the certification to determine that it meets the requirements of subsection (a). Upon so determining, the division shall proceed to suspend the person's driving privileges in

accordance with the notice of suspension previously served. If the requirements of subsection (a) are not met, the division shall dismiss the administrative proceeding ~~and return any license surrendered by the person.~~

~~(g)~~ (f) The division shall prepare and distribute forms for use by law enforcement officers in giving the notice required by this section.

~~(h)~~ (g) The provisions of K.S.A. 60-206 and amendments thereto regarding the computation of time shall not be applicable in determining the effective date of suspension set out in subsection (d). "Calendar day" when used in this section shall mean that every day shall be included in computations of time whether a week day, Saturday, Sunday or holiday.

Sec. 3. K.S.A. 8-1020 is hereby amended to read as follows: 8-1020. (a) Any licensee served with an officer's certification and notice of suspension pursuant to K.S.A. 8-1002, and amendments thereto, may request an administrative hearing. Such request may be made either by:

(1) Mailing a written request which is postmarked 10 calendar days after service of notice, if such notice was given by personal service;

(2) mailing a written request which is postmarked 13 calendar days after service of notice, if such notice was given by mail;

(3) transmitting a written request by electronic facsimile which is received by the division within 10 calendar days after service of notice, if such notice was given by personal service; or

(4) transmitting a written request by electronic facsimile which is received by the division within 13 calendar days after service, if such notice was given by mail.

~~(b) If the licensee makes a timely request for an administrative hearing, any temporary license issued pursuant to K.S.A. 8-1002, and amendments thereto, shall remain in effect until the 30th calendar day after the effective date of the decision made by the division.~~

~~(c)~~ (b) If the licensee fails to make a timely request for an administrative hearing, the licensee's driving privileges shall be suspended or suspended and then restricted in accordance with the notice of suspension served pursuant to K.S.A. 8-1002, and amendments thereto.

~~(d)~~ (c) Upon receipt of a timely request for a hearing, the division shall forthwith set the matter for hearing before a representative of the director and ~~provide notice of the extension of temporary driving privileges~~ *the person's driving privileges shall remain in effect, until an order of suspension is entered at such hearing, unless otherwise restricted, suspended, revoked or canceled.* Except for a hearing conducted by telephone or video conference call, the hearing shall be conducted in the county where the arrest occurred or a county adjacent thereto. If the licensee requests, the hearing may be conducted by telephone or video conference call.

~~(e)~~ (d) Except as provided in subsection ~~(f)~~ (e), prehearing discovery shall be limited to the following documents, which shall be provided to the licensee or the licensee's attorney no later than five calendar days prior to the date of hearing:

(1) The officer's certification and notice of suspension;

(2) in the case of a breath or blood test failure, copies of documents indicating the result of any evidentiary breath or blood test administered at the request of a law enforcement officer;

(3) in the case of a breath test failure, a copy of the affidavit showing certification of the officer and the instrument; and

(4) in the case of a breath test failure, a copy of the Kansas department of health and environment testing protocol checklist.

~~(f)~~ (e) At or prior to the time the notice of hearing is sent, the division shall issue an order allowing the licensee or the licensee's attorney to review any video or audio tape record made of the events upon which the administrative action is based. Such review shall take place at a reasonable time designated by the law enforcement agency and shall be made at the location where the video or audio tape is kept. The licensee may obtain a copy of any such video or audio tape upon request and upon payment of a reasonable fee to the law enforcement agency, not to exceed \$25 per tape.

~~(g)~~ (f) Witnesses at the hearing shall be limited to the licensee, to any law enforcement officer who signed the certification form and to one other witness who was present at the

time of the issuance of the certification and called by the licensee. The presence of the certifying officer or officers shall not be required, unless requested by the licensee at the time of making the request for the hearing. The examination of a law enforcement officer shall be restricted to the factual circumstances relied upon in the officer's certification.

↔ (g) (1) If the officer certifies that the person refused the test, the scope of the hearing shall be limited to whether:

(A) A law enforcement officer had reasonable grounds to believe the person was operating or attempting to operate a vehicle while under the influence of alcohol or drugs, or both, or had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system;

(B) the person was in custody or arrested for an alcohol or drug related offense or was involved in a vehicle accident or collision resulting in property damage, personal injury or death;

(C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto; and

(D) the person refused to submit to and complete a test as requested by a law enforcement officer.

(2) If the officer certifies that the person failed a breath test, the scope of the hearing shall be limited to whether:

(A) A law enforcement officer had reasonable grounds to believe the person was operating a vehicle while under the influence of alcohol or drugs, or both, or had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system;

(B) the person was in custody or arrested for an alcohol or drug related offense or was involved in a vehicle accident or collision resulting in property damage, personal injury or death;

(C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto;

(D) the testing equipment used was certified by the Kansas department of health and environment;

(E) the person who operated the testing equipment was certified by the Kansas department of health and environment;

(F) the testing procedures used substantially complied with the procedures set out by the Kansas department of health and environment;

(G) the test result determined that the person had an alcohol concentration of .08 or greater in such person's breath; and

(H) the person was operating or attempting to operate a vehicle.

(3) If the officer certifies that the person failed a blood test, the scope of the hearing shall be limited to whether:

(A) A law enforcement officer had reasonable grounds to believe the person was operating a vehicle while under the influence of alcohol or drugs, or both, or had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system;

(B) the person was in custody or arrested for an alcohol or drug related offense or was involved in a vehicle accident or collision resulting in property damage, personal injury or death;

(C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto;

(D) the testing equipment used was reliable;

(E) the person who operated the testing equipment was qualified;

(F) the testing procedures used were reliable;

(G) the test result determined that the person had an alcohol concentration of .08 or greater in such person's blood; and

(H) the person was operating or attempting to operate a vehicle.

↔ (h) At a hearing pursuant to this section, or upon court review of an order entered at such a hearing, an affidavit of the custodian of records at the Kansas department of health and environment stating that the breath testing device was certified and the operator of

such device was certified on the date of the test shall be admissible into evidence in the same manner and with the same force and effect as if the certifying officer or employee of the Kansas department of health and environment had testified in person. A certified operator of a breath testing device shall be competent to testify regarding the proper procedures to be used in conducting the test.

(i) At a hearing pursuant to this section, or upon court review of an order entered at such a hearing, in which the report of blood test results have been prepared by the Kansas bureau of investigation or other forensic laboratory of a state or local law enforcement agency are to be introduced as evidence, the report, or a copy of the report, of the findings of the forensic examiner shall be admissible into evidence in the same manner and with the same force and effect as if the forensic examiner who performed such examination, analysis, comparison or identification and prepared the report thereon had testified in person.

(j) At the hearing, the licensee has the burden of proof by a preponderance of the evidence to show that the facts set out in the officer's certification are false or insufficient and that the order suspending or suspending and restricting the licensee's driving privileges should be dismissed.

(k) Evidence at the hearing shall be limited to the following:

- (1) The documents set out in subsection (d);
- (2) the testimony of the licensee;
- (3) the testimony of any certifying officer;
- (4) the testimony of any witness present at the time of the issuance of the certification and called by the licensee;
- (5) any affidavits submitted from other witnesses;
- (6) any documents submitted by the licensee to show the existence of a medical condition, as described in K.S.A. 8-1001, and amendments thereto; and
- (7) any video or audio tape record of the events upon which the administrative action is based.

(l) After the hearing, the representative of the director shall enter an order affirming the order of suspension or suspension and restriction of driving privileges or for good cause appearing therefor, dismiss the administrative action. If the representative of the director enters an order affirming the order of suspension or suspension and restriction of driving privileges, the suspension or suspension and restriction shall begin on the 30th day after the effective date of the order of suspension or suspension and restriction. If the person whose privileges are suspended is a nonresident licensee, the license of the person shall be forwarded to the appropriate licensing authority in the person's state of residence if the result at the hearing is adverse to such person or if no timely request for a hearing is received.

(m) The representative of the director may issue an order at the close of the hearing or may take the matter under advisement and issue a hearing order at a later date. If the order is made at the close of the hearing, the licensee or the licensee's attorney shall be served with a copy of the order by the representative of the director. If the matter is taken under advisement or if the hearing was by telephone or video conference call, the licensee and any attorney who appeared at the administrative hearing upon behalf of the licensee each shall be served with a copy of the hearing order by mail. Any law enforcement officer who appeared at the hearing also may be mailed a copy of the hearing order. The effective date of the hearing order shall be the date upon which the hearing order is served, whether served in person or by mail.

(n) The licensee may file a petition for review of the hearing order pursuant to K.S.A. 8-259, and amendments thereto. Upon filing a petition for review, the licensee shall serve the secretary of revenue with a copy of the petition and summons. Upon receipt of a copy of the petition for review by the secretary, the ~~temporary license issued pursuant to subsection (b)~~ ~~person's driving privileges under subsection (c)~~ shall be extended until the decision on the petition for review is final.

(o) Such review shall be in accordance with this section and the act for judicial review and civil enforcement of agency actions. To the extent that this section and any other provision of law conflicts, this section shall prevail. The petition for review shall be filed within 10 days after the effective date of the order. Venue of the action for review is the county where the person was arrested or the accident occurred, or, if the hearing was not

conducted by telephone conference call, the county where the administrative proceeding was held. The action for review shall be by trial de novo to the court and the evidentiary restrictions of subsection ~~(h)~~ (k) shall not apply to the trial de novo. The court shall take testimony, examine the facts of the case and determine whether the petitioner is entitled to driving privileges or whether the petitioner's driving privileges are subject to suspension or suspension and restriction under the provisions of this act. If the court finds that the grounds for action by the agency have been met, the court shall affirm the agency action.

~~(h)~~ (p) Upon review, the licensee shall have the burden to show that the decision of the agency should be set aside.

~~(h)~~ (q) Notwithstanding the requirement to ~~issue a temporary license in K.S.A. 8-1002, and amendments thereto, and the requirements to extend the temporary license driving privileges~~ in this section, any such ~~temporary~~ driving privileges are subject to restriction, suspension, revocation or cancellation as provided in K.S.A. 8-1014, and amendments thereto, or for other cause.

~~(h)~~ (r) Upon motion by a party, or on the court's own motion, the court may enter an order restricting *or suspending* the driving privileges allowed by the ~~temporary license provided for in K.S.A. 8-1002, and amendments thereto, and in this section. The temporary license also shall be subject to restriction, suspension, revocation or cancellation, as set out in K.S.A. 8-1014, and amendments thereto, or for other cause.~~

~~(h)~~ (s) The facts found by the hearing officer or by the district court upon a petition for review shall be independent of the determination of the same or similar facts in the adjudication of any criminal charges arising out of the same occurrence. The disposition of those criminal charges shall not affect the suspension or suspension and restriction to be imposed under this section.

~~(h)~~ (t) All notices affirming or canceling a suspension under this section; *and* all notices of a hearing held under this section ~~and all issuances of temporary driving privileges pursuant to this section~~ shall be sent by first-class mail and a United States post office certificate of mailing shall be obtained therefor. All notices so mailed shall be deemed received three days after mailing, except that this provision shall not apply to any licensee where such application would result in a manifest injustice.

~~(h)~~ (u) The provisions of K.S.A. 60-206, and amendments thereto, regarding the computation of time shall not be applicable in determining the time for requesting an administrative hearing as set out in subsection (a) but shall apply to the time for filing a petition for review pursuant to subsection ~~(h)~~ (n) and K.S.A. 8-259, and amendments thereto. "Calendar day" shall mean that every day shall be included in computations of time whether a weekday, Saturday, Sunday or holiday.

Sec. 4. K.S.A. 40-3104 is hereby amended to read as follows: 40-3104. (a) Every owner shall provide motor vehicle liability insurance coverage in accordance with the provisions of this act for every motor vehicle owned by such person, unless such motor vehicle: (1) Is included under an approved self-insurance plan as provided in subsection (f); (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school; (3) is included under a qualified plan of self-insurance approved by an agency of the state in which such motor vehicle is registered and the form prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto, has been filed; or (4) is expressly exempted from the provisions of this act.

(b) An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(d) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer. The law enforcement officer shall issue a citation to any person who fails to display

evidence of financial security upon such demand. The law enforcement officer shall attach a copy of the insurance verification form prescribed by the secretary of revenue to the copy of the citation forwarded to the court.

No citation shall be issued to any person for failure to provide proof of financial security when evidence of financial security meeting the standards of subsection (e) is displayed upon demand of a law enforcement officer. Whenever the authenticity of such evidence is questionable, the law enforcement officer may initiate the preparation of the insurance verification form prescribed by the secretary of revenue by recording information from the evidence of financial security displayed. The officer shall immediately forward the form to the department of revenue, and the department shall proceed with verification in the manner prescribed in the following paragraph. Upon return of a form indicating that insurance was not in force on the date indicated on the form, the department shall immediately forward a copy of the form to the law enforcement officer initiating preparation of the form.

(e) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with violating subsections (b), (c) or (d) shall be convicted if such person produces in court, within 10 days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance. Upon the production in court of evidence of financial security, the court shall record the information displayed thereon on the insurance verification form prescribed by the secretary of revenue, immediately forward such form to the department of revenue, and stay any further proceedings on the matter pending a request from the prosecuting attorney that the matter be set for trial. Upon receipt of such form the department shall mail the form to the named insurance company for verification that insurance was in force on the date indicated on the form. It shall be the duty of insurance companies to notify the department within 30 calendar days of the receipt of such forms of any insurance that was not in force on the date specified. Upon return of any form to the department indicating that insurance was not in force on such date, the department shall immediately forward a copy of such form to the office of the prosecuting attorney or the city clerk of the municipality in which such prosecution is pending when the prosecuting attorney is not ascertainable. Receipt of any completed form indicating that insurance was not in effect on the date specified shall be prima facie evidence of failure to provide proof of financial security and violation of this section. A request that the matter be set for trial shall be made immediately following the receipt by the prosecuting attorney of a copy of the form from the department of revenue indicating that insurance was not in force. Any charge of violating subsection (b), (c) or (d) shall be dismissed if no request for a trial setting has been made within 60 days of the date evidence of financial security was produced in court.

(f) Any person in whose name more than 25 motor vehicles are registered in Kansas may qualify as a self-insurer by obtaining a certificate of self-insurance from the commissioner of insurance. The certificate of self-insurance issued by the commissioner shall cover such owned vehicles and those vehicles, registered in Kansas, leased to such person if the lease agreement requires that motor vehicle liability insurance on the vehicles be provided by the lessee. Upon application of any such person, the commissioner of insurance may issue a certificate of self-insurance, if the commissioner is satisfied that such person is possessed and will continue to be possessed of ability to pay any liability imposed by law against such person arising out of the ownership, operation, maintenance or use of any motor vehicle described in this subsection. A self-insurer shall provide liability coverage subject to the provisions of subsection (e) of K.S.A. 40-3107, and amendments thereto, arising out of the ownership, operation, maintenance or use of a self-insured motor vehicle in those instances where the lessee or the rental driver, if not the lessee, does not have a motor vehicle liability insurance policy or insurance coverage pursuant to a motor vehicle liability insurance policy or certificate of insurance or such insurance policy for such leased

or rented vehicle. Such liability coverage shall be provided to any person operating a self-insured motor vehicle with the expressed or implied consent of the self-insurer.

Upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the commissioner of insurance may cancel a certificate of self-insurance upon reasonable grounds. Failure to provide liability coverage or personal injury protection benefits required by K.S.A. 40-3107 and 40-3109, and amendments thereto, or pay any liability imposed by law arising out of the ownership, operation, maintenance or use of a motor vehicle registered in such self-insurer's name, or to otherwise comply with the requirements of this subsection shall constitute reasonable grounds for the cancellation of a certificate of self-insurance. Reasonable grounds shall not exist unless such objectionable activity occurs with such frequency as to indicate a general business practice.

Self-insureds shall investigate claims in a reasonably prompt manner, handle such claims in a reasonable manner based on available information and effectuate prompt, fair and equitable settlement of claims in which liability has become reasonably clear.

As used in this subsection, "liability imposed by law" means the stated limits of liability as provided under subsection (e) of K.S.A. 40-3107, and amendments thereto.

Nothing in this subsection shall preclude a self-insurer from pursuing all rights of subrogation against another person or persons.

(g) (1) Any person violating any provision of this section shall be guilty of a class B misdemeanor and shall be subject to a fine of not less than \$300 nor more than \$1,000 or confinement in the county jail for a term of not more than six months, or both such fine and confinement.

(2) Any person convicted of violating any provision of this section within three years of any such prior conviction shall be guilty of a class A misdemeanor and shall be subject to a fine of not less than \$800 nor more than \$2,500.

(h) In addition to any other penalties provided by this act for failure to have or maintain financial security in effect, the director, upon receipt of a report required by K.S.A. 8-1607 or 8-1611, and amendments thereto, or a denial of such insurance by the insurance company listed on the form prescribed by the secretary of revenue pursuant to subsection (d) of this section, shall, upon notice and hearing as provided by K.S.A. 40-3118, and amendments thereto:

(1) Suspend:

(A) The license of each driver in any manner involved in the accident;

(B) the license of the owner of each motor vehicle involved in such accident, unless the vehicle was stolen at the time of the accident, proof of which must be established by the owner of the motor vehicle. Theft by a member of the vehicle owner's immediate family under the age of 18 years shall not constitute a stolen vehicle for the purposes of this section;

(C) if the driver is a nonresident, the privilege of operating a motor vehicle within this state; or

(D) if such owner is a nonresident, the privilege of such owner to operate or permit the operation within this state of any motor vehicle owned by such owner; and

(2) revoke the registration of all vehicles owned by the owner of each motor vehicle involved in such accident.

(i) The suspension or revocation requirements in subsection (h) shall not apply:

(1) To the driver or owner if the owner had in effect at the time of the accident an automobile liability policy as required by K.S.A. 40-3107, and amendments thereto, with respect to the vehicle involved in the accident;

(2) to the driver, if not the owner of the vehicle involved in the accident, if there was in effect at the time of the accident an automobile liability policy with respect to such driver's driving of vehicles not owned by such driver;

(3) to any self-insurer as defined by subsection (u) of K.S.A. 40-3103, and amendments thereto;

(4) to the driver or owner of any vehicle involved in the accident which was exempt from the provisions of this act pursuant to K.S.A. 40-3105, and amendments thereto;

(5) to the owner of a vehicle described in subsection (a)(2).

(j) For the purposes of provisions (1) and (2) of subsection (i) of this section, the director may require verification by an owner's or driver's insurance company or agent thereof that

there was in effect at the time of the accident an automobile liability policy as required in this act.

Any suspension or revocation effected hereunder shall remain in effect until:

(1) Satisfactory proof of financial security has been filed with the director as required by subsection (d) of K.S.A. 40-3118, and amendments thereto, ~~and;~~

(2) *the reinstatement fee herein prescribed has been paid; and*

(3) such person:

(A) Has been released from liability or is a party to an action to determine liability pursuant to which the court temporarily stays such suspension pending final disposition of such action;

(B) has entered into an agreement for the payment of damages, ~~or;~~

(C) has been finally adjudicated not to be liable in respect to such accident and evidence of any such fact has been filed with the director ~~and has paid the reinstatement fee herein prescribed; or~~

(D) *the other party to the accident cannot be located as evidenced by providing the original or copy of a returned certified, receipt requested card that had been sent through the United States post office to the last known address as shown on the accident report or otherwise provided and such card has not been returned marked refused, to the division.*

~~Such~~ The reinstatement fee shall be \$100 except that if the registration of a motor vehicle of any owner is revoked within one year following a prior revocation of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be \$300.

(k) The provisions of this section shall not apply to motor carriers of property or passengers regulated by the corporation commission of the state of Kansas.

(l) The provisions of subsection (d) shall not apply to vehicle dealers, as defined in K.S.A. 8-2401, and amendments thereto, for vehicles being offered for sale by such dealers.”;

And by renumbering the remaining sections accordingly;

Also on page 2, in line 20, by striking “is” and inserting “, 8-1002, 8-1020 and 40-3104 are”;

On page 1, in the title, in line 10 by striking all after the semicolon where it first appears; in line 11, after “8-285” by inserting “, 8-1002, 8-1020 and 40-3104”; also in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

The Committee on **Taxation** recommends **HB 2785** be passed.

The Committee on **Taxation** recommends **HB 2828** be amended on page 5, in line 1, by striking all after “of”; by striking all in lines 2 through 4 and inserting “preservation, access and management of open space, and for industrial and business park related economic development.”;

On page 9, by striking all in lines 5 through 43;

By striking all on page 10;

On page 11, by striking all in lines 1 through 24;

In line 25, by striking the second comma and inserting “and”; also, in line 25, by striking “and 12-192”;

By renumbering existing sections accordingly;

In the title, in line 10, by striking the comma and inserting “and”; in line 11, by striking “and 12-192”; and the bill be passed as amended.

The Committee on **Taxation** recommends **HB 3011** be amended on page 7, in line 1, before “Barton” by inserting “Anderson,”; in line 3, by striking all after “2%”; by striking all in lines 4 and 5; in line 6, by striking “1%”; and the bill be passed as amended.

The Committee on **Utilities** recommends **HR 6010** be adopted.

CHANGE OF REFERENCE

Speaker pro tem Aurand announced the withdrawal of **SB 447** from Committee on Appropriations and rereferral to Committee on Health and Human Services.

Also, the withdrawal of **SB 477** from Committee on Judiciary and referral to Committee on Appropriations.

MESSAGES FROM THE GOVERNOR

HB 2679 approved on March 19, 2002.

REPORT ON ENGROSSED BILLS

HB 2666, HB 2764, HB 2949 reported correctly engrossed March 18, 2002.

On motion of Rep. Weber, the House adjourned until 11:00 a.m., Wednesday, March 20, 2002.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

