

# Journal of the House

THIRTY-FIRST DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Tuesday, February 20, 2018, 10:00 a.m.

The House met pursuant to adjournment with Speaker Ryckman in the chair.

## OATH OF OFFICE

I, KRIS KOBACH, Secretary of State of the State of Kansas, do hereby certify that Frank Trimboli was appointed by the Governor effective February 19, 2018, for the unexpired term of State Representative for the 26<sup>th</sup> Legislative District, to fill the vacancy created by the resignation of Larry Campbell, and was administered the following oath of office on February 20, 2018.

State of Kansas  
County of Shawnee}SS.

I, Frank Trimboli, do solemnly swear, or affirm, that I will support the Constitution of the United States, and the Constitution of the State of Kansas, and will faithfully discharge the duties of the office of Kansas House of Representatives, District 26, so help me God.

Subscribed and Sworn to, or Affirmed, before me this 20th of February, 2018.

ERIC RUCKER

*Kansas Assistant Secretary of State*

Speaker Ryckman welcomed Rep. Trimboli to the House of Representatives.

The House is again organized with 125 members.

The roll was called with 118 members present.

Reps. Burroughs, Henderson and Kuether were excused on verified illness.

Reps. Karleskint, Ruiz, Winn and Wolfe Moore were excused on excused absence by the Speaker.

Present later: Rep. Burroughs.

Excused later: Reps. Gallagher and Swanson.

Prayer by Chaplain Brubaker:

God in Heaven,  
As our leaders come into this chamber today,  
I pray they will be reminded again  
of the privilege, yet responsibility, they have in being here.  
Thank You for the gifts You have given them.  
Help them not to take them lightly,  
but to be good stewards of these gifts  
by using them in ways that represent and benefit the people.  
Give them creativity as they seek solutions.  
When they are confused, guide them.  
When they get weary, energize them.  
May the work they do today bring  
hope, life and courage to all.  
This I pray in Your Name, Amen.

The Pledge of Allegiance was led by Rep. Thimesch.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to committees as indicated:

Federal and State Affairs: **HB 2752**.

#### INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. Hineman, **HR 6049**, by Reps. Ryckman, Hineman and Ward, as follows, was introduced and adopted:

HOUSE RESOLUTION No. **HR 6049**—

By Representatives Ryckman, Hineman and Ward

**HR 6049**—A RESOLUTION relating to assignment of seats of the House of Representatives.

*Be it resolved by the House of Representatives of the State of Kansas:* That the members of the 2018 regular session of the legislature shall occupy the same seats assigned pursuant to 2018 House Resolution No. 6041 with the following exceptions: Patton, seat No. 37; Trimboli, seat No. 82.

#### CHANGE OF REFERENCE

Speaker Ryckman announced the withdrawal of **HB 2487** from the Committee on Insurance and referral to the Committee on Appropriations.

Also, the withdrawal of **HB 2625** from Committee on Appropriations and re-referral to Committee on Corrections and Juvenile Justice.

#### CONSENT CALENDAR

No objection was made to **SB 256** appearing on the Consent Calendar for the second day.

No objection was made to **HB 2729** appearing on the Consent Calendar for the third day. The bill was advanced to Final Action on Bills and Concurrent Resolutions.

On motion of Rep. Hineman, the House resolved into the Committee of the Whole, with Rep. Aurand in the chair.

### COMMITTEE OF THE WHOLE

On motion of Rep. Aurand, Committee of the Whole report, as follows, was adopted:

Recommended that: **HB 2498**, **HB 2479**, **HB 2542** be passed.

Committee report to **HB 2088** be adopted; and the bill be passed as amended.

Committee report to **HB 2448** be adopted.

On motion of Rep. Jennings, **HB 2448** be amended on page 3, in line 42, by striking "(4)" and inserting "(3)";

On page 4, in line 3, by striking "(5)" and inserting "(4)"; in line 8, by striking "(6)" and inserting "(5)"; in line 12, by striking "(7)" and inserting "(6)"; and the bill be passed as amended.

On motion of Rep. Carpenter, **HB 2539** be amended on page 1, following line 16, by inserting:

"(d) Every candidate for the office of attorney general must be licensed to practice law within the state of Kansas."

Also, on motion of Rep. Whitmer to amend **HB 2539**, the motion did not prevail.

Also, on motion of Rep. Williams to amend **HB 2539**, the motion did not prevail.

Roll call was demanded on motion of Rep. Miller to amend **HB 2539**, on page 1, in line 12, after "Kansas" by inserting "and shall not engage in any outside employment if elected"

On roll call, the vote was: Yeas 34; Nays 82; Present but not voting: 0; Absent or not voting: 9.

Yeas: Alcalá, Ballard, Bishop, Carlin, Carmichael, Crum, S., Curtis, Deere, Finney, Frownfelter, Gartner, Helgerson, Highberger, Hodge, Holscher, Horn, Lusk, Lusker, Miller, Murnan, Neighbor, Ohaebosim, Ousley, Parker, Phelps, Pittman, Probst, Sawyer, Stogsdill, Trimmer, Victors, Ward, Weigel, Whipple.

Nays: Alford, Arnberger, Aurand, Awerkamp, Baker, Barker, Becker, Bergquist, Blex, Brim, Burris, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Cox, E. Davis, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Francis, Garber, Good, Hawkins, Hibbard, Highland, Hineman, Hoffman, Houser, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Kelly, Kessinger, Koesten, Landwehr, Lewis, Markley, Mason, Mastroni, Orr, Osterman, F. Patton, Phillips, R. Powell, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ryckman, Schreiber, Schroeder, Schwab, Seiwert, Sloan, Smith, A., Smith, E., Sutton, Tarwater, Thimesch, Thompson, Trimboli, Vickrey, Waymaster, Weber, C., Wheeler, Whitmer, K. Williams.

Present but not voting: None.

Absent or not voting: Burroughs, Gallagher, Henderson, Karleskint, Kuether, Ruiz, S. Swanson, Winn, Wolfe Moore.

The motion did not prevail.

Also, on motion of Rep. Lusker, **HB 2539** be amended on page 1, in line 14, by striking all after "elector"; by striking all in line 15; in line 16, by striking "candidate" and the bill be passed as amended.

**REPORTS OF STANDING COMMITTEES**

Committee on **Elections** recommends **HB 2604** be amended on page 1, in line 30, after "all" by inserting "federal offices,"; in line 31, by striking "as soon as practicable" and inserting "not later than 30 days";

On page 2, in line 29, after "all" by inserting "federal offices,"; in line 30, by striking "as soon as practicable" and inserting "not later than 30 days"; and the bill be passed as amended.

Committee on **Elections** recommends **HB 2642** be amended on page 1, in line 21, by striking all before "sponsoring"; in line 22, by striking all before "or" and inserting "organization"; in line 28, by striking all after "organization"; in line 29, by striking all before "or";

On page 2, in line 1, by striking all after "organization"; in line 2, by striking all before the second "or"; in line 8, by striking all after the second "the"; in line 9, by striking all before "sponsoring"; also in line 9, by striking "the same" and inserting "organization"; in line 18, by striking all after the second "the"; in line 19, by striking all before "sponsoring"; also in line 19, by striking "the same" and inserting "organization"; in line 31, by striking "and air for not less than four seconds"; in line 35, by striking "and shall last at least three seconds"; and the bill be passed as amended.

Committee on **Government, Technology and Security** recommends **HB 2700** be amended on page 1, in line 12, by striking "paragraph" and inserting "paragraphs"; also in line 12, after "(1)" by inserting "and (3)"; and the bill be passed as amended.

Committee on **Health and Human Services** recommends **HB 2549** be amended on page 4, by striking all in lines 19 through 43;

By striking all on page 5;

On page 6, by striking all in lines 1 through 13; in line 14, by striking the comma and inserting "and"; also in line 14, by striking "and 39-1602";

And by renumbering sections accordingly;

On page 1, in the title, in line 4, by striking the comma and inserting "and"; also in line 4, by striking "and 39-1602"; and the bill be passed as amended.

Committee on **Health and Human Services** recommends **HB 2590** be amended on page 3, in line 27, by striking "Residential" and inserting "Resident"; in line 41, by striking "residential" and inserting "resident";

On page 8, in line 32, by striking "or volunteer ombudsman"; in line 34, by striking "or volunteer ombudsman"; in line 40, by striking "or"; in line 41, by striking "volunteer ombudsman";

On page 9, in line 1, by striking "or volunteer ombudsman"; in line 3, after "all" by inserting "administrative"; also in line 3, after "records" by inserting ", policies"; in line 4, by striking "which" and inserting "that the residents have or the general public has access to that"; in line 27, by striking "SLTCDP" and inserting "state long-term care ombudsman program"; and the bill be passed as amended.

Committee on **Health and Human Services** recommends **HB 2674** be amended on page 1, in line 9, by striking "5" and inserting "7";

On page 3, following line 43, by inserting:

"New Sec. 6. Nothing in the Kansas telemedicine act shall be construed to authorize the delivery of any abortion procedure via telemedicine.

New Sec. 7. If any provision of the Kansas telemedicine act, or the application thereof to any person or circumstance, is held invalid or unconstitutional by court order,

then the remainder of the Kansas telemedicine act and the application of such provision to other persons or circumstances shall not be affected thereby and it shall be conclusively presumed that the legislature would have enacted the remainder of the Kansas telemedicine act without such invalid or unconstitutional provision, except that the provisions of section 6, and amendments thereto, are expressly declared to be nonseverable.";

On page 4, in line 5, by striking "5" and inserting "7"; in line 25, by striking "5" and inserting "7";

And by renumbering sections accordingly; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2457** be amended on page 2, in line 3, by striking all after "(a)"; in line 4, by striking all before the second comma and inserting "No later than 30 days prior to the date the court establishes for the completion of all fact discovery";

On page 3, by striking all in lines 6 and 7; in line 8, by striking all after "motion"; by striking all in line 9; in line 10, by striking all before the second "the" and inserting "no later than the date the court establishes for the completion of all fact discovery identifying"; in line 26, by striking all after the comma; in line 27, by striking all before the second "the"; also in line 27, by striking "files" and inserting "shall file"; in line 30, after "trust" by inserting "within 30 days of the court's determination"; by striking all in lines 31 and 32; by striking all in lines 42 and 43;

On page 4, by striking all in lines 1 through 4; in line 16, after "judgment" by inserting "in the asbestos claim"; in line 18, by striking all after the period; by striking all in line 19; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2571** be amended on page 1, by striking all in lines 8 through 36;

By striking all on pages 2 through 11;

On page 12, by striking all in lines 1 through 23; in line 36, by striking "24 hours" and inserting "20 days"; in line 41, by striking the first "a" and inserting "any"; in line 43, by striking all after "(3)";

On page 13, in line 1 by striking "and"; in line 2, by striking "(4)"; also in line 2, by striking all after the first comma; by striking all in line 3; in line 4, by striking "decendent,"; also in line 4, by striking the first "the" and inserting "a"; also in line 4, after "recording" by inserting "; and

(4) an attorney for a person described in this subsection";

Also on page 13, in line 5, by striking all after "(d)"; by striking all in lines 6 through 43;

On page 14, by striking all in lines 1 through 10; in line 11, by striking "(g)"; in line 14, by striking all after "(A)"; by striking all in lines 15 through 17; in line 18, by striking all before the period and inserting "An executor or an administrator of a decedent; (B) the spouse of the decedent, if living; (C) if there is no living spouse of a decedent, an adult child of a decedent, if living; or (D) if there is no living spouse or adult child of a decedent, a parent of a decedent, if living";

Also on page 14, in line 22, by striking "45-219, 45-221 and"; also in line 22, by striking "are" and inserting "is";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, by striking all before "law"; in line 4, by striking "45-219, 45-221 and"; in line 5, by striking "sections" and inserting "section"; and the

bill be passed as amended.

Committee on **Judiciary** recommends **HB 2579** be amended on page 2, following line 16, by inserting:

"(3) All pleadings shall be captioned, "In the matter of the wrongful conviction of \_\_\_\_\_,"

(4) Any claim filed pursuant to this section shall be served on the attorney general in accordance with the code of civil procedure.

(5) The suit for a claim filed pursuant to this section shall be tried by the court, and no request for a jury trial may be made pursuant to K.S.A. 60-238, and amendments thereto.";

Also on page 2, in line 19, by striking "(d)" and inserting "(e)"; in line 35, by striking all before the semicolon and inserting "incurred in the action brought pursuant to this section"; by striking all in lines 40 and 41;

On page 3, in line 1, after the comma by inserting "or has entered into a settlement agreement with the state or any political subdivision thereof related to the same subject,"; in line 2, after "action" by inserting "or the amount received in the settlement agreement"; in line 3, after "action" by inserting "or obtaining the settlement agreement"; in line 10, after the comma by inserting "or enters into a settlement agreement with the state or any political subdivision thereof related to the same subject,"; in line 11, after "(e)" by inserting ", less any sums paid to attorneys or for costs in litigating the other civil action or obtaining the settlement agreement"; in line 14, after "action" by inserting "or the amount received in the settlement agreement";

On page 4, following line 5, by inserting:

"(j) The decision of the district court may be appealed directly to the supreme court pursuant to the code of civil procedure."; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2588** be amended on page 1, in line 20, by striking the comma and inserting "or"; also in line 20, by striking "or"; in line 21, by striking all before "prior"; in line 23, by striking the second comma and inserting "or"; also in line 23, by striking "or"; in line 24, by striking "expulsion"; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2722** be passed.

Committee on **Transportation** recommends **HB 2040**, as amended by House Committee, be amended as recommended by the House Committee on Judiciary as reported in the Journal of the House on March 24, 2017, and the bill as printed, As Further Amended by House Committee, be further amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2040," as follows:

"Substitute for HOUSE BILL NO. 2040

By Committee on Transportation

"AN ACT regulating traffic; concerning the overtaking and passing of school buses; increasing the penalties for subsequent violations thereof; amending K.S.A. 2017 Supp. 8-2118 and repealing the existing section.";

And the substitute bill be passed.

(**Sub HB 2040** was thereupon introduced and read by title.)

Committee on **Transportation** recommends **HB 2606** be amended on page 5, in line 29, by striking "that" and inserting "than"; and the bill be passed as amended.

Upon unanimous consent, the House referred back to the regular business, Introduction of Bills and Concurrent Resolutions.

### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

**HB 2753**, AN ACT concerning taxation; relating to income tax credits and sales tax exemptions; periodic review, reports to certain legislative committees, by Committee on Taxation.

On motion of Rep. Hineman, the House recessed until 2:15 p.m.

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### AFTERNOON SESSION

The House met pursuant to recess with Speaker Ryckman in the chair.

### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**HB 2729**, AN ACT concerning agriculture; relating to the Kansas egg law; repackaging by retailers, requirements; amending K.S.A. 2017 Supp. 2-2510 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 0; Present but not voting: 0; Absent or not voting: 7.

Yeas: Alcalá, Alford, Arnberger, Aurand, Awerkamp, Baker, Ballard, Barker, Becker, Bergquist, Bishop, Blex, Brim, Burris, Burroughs, Carlin, Carmichael, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Garber, Gartner, Good, Hawkins, Helgerson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Holscher, Horn, Houser, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Kelly, Kessinger, Koesten, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, R. Powell, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams.

Nays: None.

Present but not voting: None.

Absent or not voting: Gallagher, Henderson, Karleskint, Kuether, Ruiz, Winn, Wolfe Moore.

The bill passed.

**Sub HB 2147**, AN ACT concerning income taxation; relating to refunds; certain Native American veterans, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 0; Present but not voting: 0; Absent or not voting: 7.

Yeas: Alcalá, Alford, Arnberger, Aurand, Awerkamp, Baker, Ballard, Barker, Becker,

Bergquist, Bishop, Blex, Brim, Burris, Burroughs, Carlin, Carmichael, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Garber, Gartner, Good, Hawkins, Helgerson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Holscher, Horn, Houser, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Kelly, Kessinger, Koesten, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, R. Powell, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams.

Nays: None.

Present but not voting: None.

Absent or not voting: Gallagher, Henderson, Karleskint, Kuether, Ruiz, Winn, Wolfe Moore.

The substitute bill passed, as amended.

**HB 2465**, AN ACT concerning the Kansas commission on veterans affairs office; relating to drug screening programs; safety sensitive positions; amending K.S.A. 2017 Supp. 75-4362 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 101; Nays 17; Present but not voting: 0; Absent or not voting: 7.

Yeas: Alcalá, Alford, Arnberger, Awerkamp, Baker, Ballard, Barker, Becker, Bergquist, Blex, Brim, Burris, Burroughs, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., E. Davis, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Garber, Gartner, Good, Hawkins, Hibbard, Highland, Hineman, Hodge, Hoffman, Horn, Houser, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Kelly, Kessinger, Koesten, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Murnan, Neighbor, Ohaebosim, Orr, Osterman, F. Patton, Phelps, Phillips, Pittman, R. Powell, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Vickrey, Victors, Waymaster, Weber, C., Weigel, Wheeler, Whitmer, K. Williams.

Nays: Aurand, Bishop, Carlin, Carmichael, Curtis, Deere, Frownfelter, Helgerson, Highberger, Holscher, Miller, Ousley, Parker, Probst, Trimmer, Ward, Whipple.

Present but not voting: None.

Absent or not voting: Gallagher, Henderson, Karleskint, Kuether, Ruiz, Winn, Wolfe Moore.

The bill passed.

**HB 2486**, AN ACT regulating traffic; concerning the operation of golf carts; required lighting for night use; amending K.S.A. 2017 Supp. 8-15,108 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 89; Nays 29; Present but not voting: 0; Absent or not voting: 7.

Yeas: Alford, Arnberger, Aurand, Awerkamp, Baker, Ballard, Becker, Bergquist,



Bishop, Blex, Burris, Burroughs, Clark, Clayton, Concannon, Corbet, Cox, Curtis, E. Davis, Deere, Dierks, Dietrich, Elliott, Eplee, Finch, Finney, Francis, Frownfelter, Garber, Gartner, Helgerson, Hibbard, Highberger, Highland, Hineman, Holscher, Horn, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Kelly, Kessinger, Koesten, Landwehr, Lewis, Lusk, Lusker, Markley, Mastroni, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, R. Powell, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Trimmer, Victors, Ward, Weber, C., Wheeler, K. Williams.

Nays: Alcalá, Barker, Brim, Carlin, Carmichael, B. Carpenter, Claeys, Crum, S., Delperdang, Dove, Ellis, Esau, Good, Hawkins, Hodge, Hoffman, Houser, Mason, Miller, Pittman, Seiwert, Thimesch, Thompson, Trimboli, Vickrey, Waymaster, Weigel, Whipple, Whitmer.

Present but not voting: None.

Absent or not voting: Gallagher, Henderson, Karleskint, Kuether, Ruiz, Winn, Wolfe Moore.

The bill passed.

#### EXPLANATION OF VOTE

MR. SPEAKER: I vote no on **HB 2486**. In 1986 when I was celebrating the birth of my first grandchild, my friend in Chanute, Kansas, was picking up pieces of her life. Her son and four other teenagers were in a golf cart that was hit by a car. I believe two were killed and my friend's son spent a year in a hospital and suffers today from his head injuries. I cannot support this bill. Golf carts go too slow for highway use. – SYDNEY CARLIN

**HB 2511**, AN ACT concerning commercial driver's licenses, renewal period; amending K.S.A. 2017 Supp. 8-247 and 8-2,135 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 0; Present but not voting: 0; Absent or not voting: 7.

Yeas: Alcalá, Alford, Arnberger, Aurand, Awerkamp, Baker, Ballard, Barker, Becker, Bergquist, Bishop, Blex, Brim, Burris, Burroughs, Carlin, Carmichael, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Garber, Gartner, Good, Hawkins, Helgerson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Holscher, Horn, Houser, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Kelly, Kessinger, Koesten, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, R. Powell, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams.

Nays: None.

Present but not voting: None.

Absent or not voting: Gallagher, Henderson, Karleskint, Kuether, Ruiz, Winn, Wolfe Moore.

The bill passed.

**HB 2628**, AN ACT concerning airport authorities; amending K.S.A. 27-325 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 0; Present but not voting: 0; Absent or not voting: 7.

Yeas: Alcalá, Alford, Arnberger, Aurand, Awerkamp, Baker, Ballard, Barker, Becker, Bergquist, Bishop, Blex, Brim, Burris, Burroughs, Carlin, Carmichael, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Garber, Gartner, Good, Hawkins, Helgerson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Holscher, Horn, Houser, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Kelly, Kessinger, Koesten, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, R. Powell, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams.

Nays: None.

Present but not voting: None.

Absent or not voting: Gallagher, Henderson, Karleskint, Kuether, Ruiz, Winn, Wolfe Moore.

The bill passed, as amended.

**SB 217**, AN ACT concerning the Kansas department for aging and disability services; updating certain statutory references and making technical changes related thereto; amending K.S.A. 19-4016, 40-2,116 and 40-12a01 and K.S.A. 2017 Supp. 12-736, 21-5417, 21-6109, 22-4612, 36-501, 39-1430, 39-1431, 39-1433, 39-1602, 39-1903, 40-2,105, 40-2,105a, 40-3401, 40-3403, 59-2946, 59-29b46, 59-3077, 65-4412, 65-4432, 65-4915, 65-4921, 65-5601, 65-6805, 75-5923, 75-6102, 79-201b and 79-3606 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 0; Present but not voting: 0; Absent or not voting: 7.

Yeas: Alcalá, Alford, Arnberger, Aurand, Awerkamp, Baker, Ballard, Barker, Becker, Bergquist, Bishop, Blex, Brim, Burris, Burroughs, Carlin, Carmichael, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Cox, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Garber, Gartner, Good, Hawkins, Helgerson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Holscher, Horn, Houser, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Kelly, Kessinger, Koesten, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, R. Powell, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams.

Nays: None.

Present but not voting: None.

Absent or not voting: Gallagher, Henderson, Karleskint, Kuether, Ruiz, Winn, Wolfe Moore.

The bill passed, as amended.

On motion of Rep. Hineman, the House resolved into the Committee of the Whole, with Rep. Aurand in the chair.

### COMMITTEE OF THE WHOLE

On motion of Rep. Aurand, Committee of the Whole report, as follows, was adopted:

Recommended that **HB 2501, HB 2597** be passed.

Committee report to **HB 2361** be adopted.

Roll call was demanded on motion of Rep. Curtis to amend **HB 2361**, on page 1, following line 6, by inserting:

"Section 1. K.S.A. 2017 Supp. 44-510d is hereby amended to read as follows: 44-510d.(a) Where disability, partial in character but permanent in quality, results from the injury, the injured employee shall be entitled to the compensation provided in K.S.A. 44-510h and 44-510i, and amendments thereto. The injured employee may be entitled to payment of temporary total disability as defined in K.S.A. 44-510c, and amendments thereto, or temporary partial disability as defined in ~~subsection (a)(1)~~ of K.S.A. 44-510c(1), and amendments thereto, provided that the injured employee shall not be entitled to any other or further compensation for or during the first week following the injury unless such disability exists for three consecutive weeks, in which event compensation shall be paid for the first week. Thereafter compensation shall be paid for temporary total or temporary partial disability as provided in the following schedule, 66<sup>2</sup>/<sub>3</sub>% of the average weekly wages to be computed as provided in K.S.A. 44-511, and amendments thereto, except that in no case shall the weekly compensation be more than the maximum as provided for in K.S.A. 44-510c, and amendments thereto.

(b) If there is an award of permanent disability as a result of the injury there shall be a presumption that disability existed immediately after the injury and compensation is to be paid for not to exceed the number of weeks allowed in the following schedule:

- (1) For loss of a thumb, 60 weeks.
- (2) For the loss of a first finger, commonly called the index finger, 37 weeks.
- (3) For the loss of a second finger, 30 weeks.
- (4) For the loss of a third finger, 20 weeks.
- (5) For the loss of a fourth finger, commonly called the little finger, 15 weeks.
- (6) Loss of the first phalange of the thumb or of any finger shall be considered to be equal to the loss of <sup>1</sup>/<sub>2</sub> of such thumb or finger, and the compensation shall be <sup>1</sup>/<sub>2</sub> of the amount specified above. The loss of the first phalange and any part of the second phalange of any finger, which includes the loss of any part of the bone of such second phalange, shall be considered to be equal to the loss of <sup>2</sup>/<sub>3</sub> of such finger and the compensation shall be <sup>2</sup>/<sub>3</sub> of the amount specified above. The loss of the first phalange and any part of the second phalange of a thumb which includes the loss of any part of the bone of such second phalange, shall be considered to be equal to the loss of the entire thumb. The loss of the first and second phalanges and any part of the third

proximal phalange of any finger, shall be considered as the loss of the entire finger. Amputation through the joint shall be considered a loss to the next higher schedule.

(7) For the loss of a great toe, 30 weeks.

(8) For the loss of any toe other than the great toe, 10 weeks.

(9) The loss of the first phalange of any toe shall be considered to be equal to the loss of  $\frac{1}{2}$  of such toe and the compensation shall be  $\frac{1}{2}$  of the amount above specified.

(10) The loss of more than one phalange of a toe shall be considered to be equal to the loss of the entire toe.

(11) For the loss of a hand, 150 weeks.

(12) For the loss of a forearm, 200 weeks.

(13) For the loss of an arm, excluding the shoulder joint, shoulder girdle, shoulder musculature or any other shoulder structures, 210 weeks, and for the loss of an arm, including the shoulder joint, shoulder girdle, shoulder musculature or any other shoulder structures, 225 weeks.

(14) For the loss of a foot, 125 weeks.

(15) For the loss of a lower leg, 190 weeks.

(16) For the loss of a leg, 200 weeks.

(17) For the loss of an eye, or the complete loss of the sight thereof, 120 weeks.

(18) Amputation or severance below the wrist shall be considered as the loss of a hand. Amputation at the wrist and below the elbow shall be considered as the loss of the forearm. Amputation at or above the elbow shall be considered loss of the arm. Amputation below the ankle shall be considered loss of the foot. Amputation at the ankle and below the knee shall be considered as loss of the lower leg. Amputation at or above the knee shall be considered as loss of the leg.

(19) For the complete loss of hearing of both ears, 110 weeks.

(20) For the complete loss of hearing of one ear, 30 weeks.

(21) Permanent loss of the use of a finger, thumb, hand, shoulder, arm, forearm, toe, foot, leg or lower leg or the permanent loss of the sight of an eye or the hearing of an ear, shall be equivalent to the loss thereof. For the permanent partial loss of the use of a finger, thumb, hand, shoulder, arm, toe, foot or leg, or the sight of an eye or the hearing of an ear, compensation shall be paid as provided for in K.S.A. 44-510c, and amendments thereto, per week during that proportion of the number of weeks in the foregoing schedule provided for the loss of such finger, thumb, hand, shoulder, arm, toe, foot or leg or the sight of an eye or the hearing of an ear, which partial loss thereof bears to the total loss of a finger, thumb, hand, shoulder, arm, toe, foot or leg, or the sight of an eye or the hearing of an ear; but in no event shall the compensation payable hereunder for such partial loss exceed the compensation payable under the schedule for the total loss of such finger, thumb, hand, arm, toe, foot or leg, or the sight of an eye or the hearing of an ear, exclusive of the healing period. As used in this paragraph (21), "shoulder" means the shoulder joint, shoulder girdle, shoulder musculature or any other shoulder structures.

(22) For traumatic hernia, compensation shall be limited to the compensation under K.S.A. 44-510h and 44-510i, and amendments thereto, compensation for temporary total disability during such period of time as such employee is actually unable to work on account of such hernia, and, in the event such hernia is inoperable, weekly compensation during 12 weeks, except that, in the event that such hernia is operable, the unreasonable refusal of the employee to submit to an operation for surgical repair of

such hernia shall deprive such employee of any benefits under the workers compensation act.

(23) Loss of or loss of use of a scheduled member shall be based upon permanent impairment of function to the scheduled member as determined using the fourth edition of the American medical association guides to the evaluation of permanent impairment, if the impairment is contained therein, ~~until January 1, 2015, but for injuries occurring on and after January 1, 2015, shall be determined by using the sixth edition of the American medical association guides to the evaluation of permanent impairment, if the impairment is contained therein.~~

(24) Where an injury results in the loss of or loss of use of more than one scheduled member within a single extremity, the functional impairment attributable to each scheduled member shall be combined pursuant to the fourth edition of the American medical association guides for evaluation of permanent impairment ~~until January 1, 2015, but for injuries occurring on and after January 1, 2015, shall be combined pursuant to the sixth edition of the American medical association guides to the evaluation of permanent impairment,~~ and compensation awarded shall be calculated to the highest scheduled member actually impaired.

(c) Whenever the employee is entitled to compensation for a specific injury under the foregoing schedule, the same shall be exclusive of all other compensation except the benefits provided in K.S.A. 44-510h and 44-510i, and amendments thereto, and no additional compensation shall be allowable or payable for any temporary or permanent, partial or total disability, except that the director, in proper cases, may allow additional compensation during the actual healing period, following amputation. The healing period shall not be more than 10% of the total period allowed for the scheduled injury in question nor in any event for longer than 15 weeks. The return of the employee to the employee's usual occupation shall terminate the healing period.

(d) The amount of compensation for permanent partial disability under this section shall be determined by multiplying the payment rate by the weeks payable. As used in this section:

(1) Payment rate shall be the lesser of: (A) The amount determined by multiplying the average weekly wage of the worker prior to such injury by  $66\frac{2}{3}\%$ ; or (B) the maximum provided in K.S.A. 44-510c, and amendments thereto;

(2) weeks payable shall be determined as follows: (A) Determine the weeks of benefits provided for the injury on schedule; (B) determine the weeks of temporary compensation paid by adding the amounts of temporary total and temporary partial disability compensation paid and dividing the sum by the payment rate above; (C) subtract the weeks of temporary compensation calculated in subsection (d)(2)(B) from the weeks of benefits provided for the injury as determined in subsection (d)(2)(A); and (D) multiply the weeks as determined in subsection (d)(2)(C) by the percentage of permanent partial impairment of function as determined under subsection (b)(23).

The resulting award shall be paid for the number of weeks at the payment rate until fully paid or modified. Under no circumstances shall the period of permanent partial disability run concurrently with the period of temporary total or temporary partial disability.

Sec. 2. K.S.A. 2017 Supp. 44-510e is hereby amended to read as follows: 44-510e.  
(a) In case of whole body injury resulting in temporary or permanent partial general disability not covered by the schedule in K.S.A. 44-510d, and amendments thereto, the

employee shall receive weekly compensation as determined in this subsection during the period of temporary or permanent partial general disability not exceeding a maximum of 415 weeks.

(1) Weekly compensation for temporary partial general disability shall be  $66\frac{2}{3}\%$  of the difference between the average weekly wage that the employee was earning prior to the date of injury and the amount the employee is actually earning after such injury in any type of employment. In no case shall such weekly compensation exceed the maximum as provided for in K.S.A. 44-510c, and amendments thereto.

(2) (A) Permanent partial general disability exists when the employee is disabled in a manner which is partial in character and permanent in quality and which is not covered by the schedule in K.S.A. 44-510d, and amendments thereto. Compensation for permanent partial general disability shall also be paid as provided in this section where an injury results in:

(i) The loss of or loss of use of a shoulder, arm, forearm or hand of one upper extremity, combined with the loss of or loss of use of a shoulder, arm, forearm or hand of the other upper extremity;

(ii) the loss of or loss of use of a leg, lower leg or foot of one lower extremity, combined with the loss of or loss of use of a leg, lower leg or foot of the other lower extremity; or

(iii) the loss of or loss of use of both eyes.

(B) The extent of permanent partial general disability shall be the percentage of functional impairment the employee sustained on account of the injury as established by competent medical evidence and based on the fourth edition of the American medical association guides to the evaluation of permanent impairment, if the impairment is contained therein, ~~until January 1, 2015, but for injuries occurring on and after January 1, 2015, based on the sixth edition of the American medical association guides to the evaluation of permanent impairment, if the impairment is contained therein.~~

(C) An employee may be eligible to receive permanent partial general disability compensation in excess of the percentage of functional impairment ("work disability") if:

(i) The percentage of functional impairment determined to be caused solely by the injury exceeds  $7\frac{1}{2}\%$  to the body as a whole or the overall functional impairment is equal to or exceeds 10% to the body as a whole in cases where there is preexisting functional impairment; and

(ii) the employee sustained a post-injury wage loss, as defined in ~~subsection (a)(2) (E) of K.S.A. 44-510e(a)(2)(E)~~, and amendments thereto, of at least 10% which is directly attributable to the work injury and not to other causes or factors.

In such cases, the extent of work disability is determined by averaging together the percentage of post-injury task loss demonstrated by the employee to be caused by the injury and the percentage of post-injury wage loss demonstrated by the employee to be caused by the injury.

(D) "Task loss" shall mean the percentage to which the employee, in the opinion of a licensed physician, has lost the ability to perform the work tasks that the employee performed in any substantial gainful employment during the five-year period preceding the injury. The permanent restrictions imposed by a licensed physician as a result of the work injury shall be used to determine those work tasks which the employee has lost the ability to perform. If the employee has preexisting permanent restrictions, any work

tasks which the employee would have been deemed to have lost the ability to perform, had a task loss analysis been completed prior to the injury at issue, shall be excluded for the purposes of calculating the task loss which is directly attributable to the current injury.

(E) "Wage loss" shall mean the difference between the average weekly wage the employee was earning at the time of the injury and the average weekly wage the employee is capable of earning after the injury. The capability of a worker to earn post-injury wages shall be established based upon a consideration of all factors, including, but not limited to, the injured worker's age, physical capabilities, education and training, prior experience, and availability of jobs in the open labor market. The administrative law judge shall impute an appropriate post-injury average weekly wage based on such factors. Where the employee is engaged in post-injury employment for wages, there shall be a rebuttable presumption that the average weekly wage an injured worker is actually earning constitutes the post-injury average weekly wage that the employee is capable of earning. The presumption may be overcome by competent evidence.

(i) To establish post-injury wage loss, the employee must have the legal capacity to enter into a valid contract of employment. Wage loss caused by voluntary resignation or termination for cause shall in no way be construed to be caused by the injury.

(ii) The actual or projected weekly value of any employer-paid fringe benefits are to be included as part of the worker's post-injury average weekly wage and shall be added to the wage imputed by the administrative law judge pursuant to K.S.A. 44-510e(a)(2)(E), and amendments thereto.

(iii) The injured worker's refusal of accommodated employment within the worker's medical restrictions as established by the authorized treating physician and at a wage equal to 90% or more of the pre-injury average weekly wage shall result in a rebuttable presumption of no wage loss.

(F) The amount of compensation for whole body injury under this section shall be determined by multiplying the payment rate by the weeks payable. As used in this section: (1) The payment rate shall be the lesser of: (A) The amount determined by multiplying the average weekly wage of the worker prior to such injury by  $66\frac{2}{3}\%$ ; or (B) the maximum provided in K.S.A. 44-510c, and amendments thereto; (2) weeks payable shall be determined as follows: (A) Determine the weeks of temporary compensation paid by adding the amounts of temporary total and temporary partial disability compensation paid and dividing the sum by the payment rate above; (B) subtract from 415 weeks the total number of weeks of temporary compensation paid as determined in subparagraph (F)(2)(A), excluding the first 15 such weeks; and (3) multiply the number of weeks as determined in subparagraph (F)(2)(B) by the percentage of functional impairment pursuant to subsection (a)(2)(B) or the percentage of work disability pursuant to subsection (a)(2)(C), whichever is applicable.

(3) When an injured worker is eligible to receive an award of work disability, compensation is limited to the value of the work disability as calculated above. In no case shall functional impairment and work disability be awarded together.

The resulting award shall be paid for the number of disability weeks at the payment rate until fully paid or modified. In any case of permanent partial disability under this section, the employee shall be paid compensation for not to exceed 415 weeks following the date of such injury. If there is an award of permanent disability as a result of the compensable injury, there shall be a presumption that disability existed

immediately after such injury. Under no circumstances shall the period of permanent partial disability run concurrently with the period of temporary total or temporary partial disability.

(b) If an employee has sustained an injury for which compensation is being paid, and the employee's death is caused by other and independent causes, any payment of compensation already due the employee at the time of death and then unpaid shall be paid to the employee's dependents directly or to the employee's legal representatives if the employee left no dependent, but the liability of the employer for the payments of compensation not yet due at the time of the death of such employee shall cease and be abrogated by the employee's death.

(c) The total amount of compensation that may be allowed or awarded an injured employee for all injuries received in any one accident shall in no event exceed the compensation which would be payable under the workers compensation act for 100% permanent total disability resulting from such accident.

(d) Where a minor employee or a minor employee's dependents are entitled to compensation under the workers compensation act, such compensation shall be exclusive of all other remedies or causes of action for such injury or death, and no claim or cause of action against the employer shall inure or accrue to or exist in favor of the parent or parents of such minor employee on account of any damage resulting to such parent or parents on account of the loss of earnings or loss of service of such minor employee.

(e) In any case of injury to or death of an employee, where the employee or the employee's dependents are entitled to compensation under the workers compensation act, such compensation shall be exclusive of all other remedies or causes of action for such injury or death, and no claim or action shall inure, accrue to or exist in favor of the surviving spouse or any relative or next of kin of such employee against such employer on account of any damage resulting to such surviving spouse or any relative or next of kin on account of the loss of earnings, services, or society of such employee or on any other account resulting from or growing out of the injury or death of such employee.";

On page 5, in line 34, after "Supp." by inserting "44-510d, 44-510e,";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "concerning" by inserting "workers compensation; medical guides;"; in line 3, after "Supp." by inserting "44-510d, 44-510e,"

On roll call, the vote was: Yeas 41; Nays 77; Present but not voting: 0; Absent or not voting: 7.

Yeas: Alcalá, Baker, Ballard, Bishop, Burroughs, Carlin, Carmichael, Clark, Clayton, Crum, S., Curtis, Deere, Finney, Frownfelter, Gartner, Helgerson, Highberger, Hodge, Holscher, Horn, Lusk, Lusker, Miller, Murnan, Neighbor, Ohaebosim, Orr, Ousley, Parker, Phelps, Pittman, Probst, Rooker, Sawyer, Stogsdill, S. Swanson, Trimmer, Victors, Ward, Weigel, Whipple.

Nays: Alford, Arnberger, Aurand, Awerkamp, Barker, Becker, Bergquist, Blex, Brim, Burris, B. Carpenter, Claeys, Concannon, Corbet, Cox, E. Davis, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Francis, Garber, Good, Hawkins, Hibbard, Highland, Hineman, Hoffman, Houser, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Kelly, Kessinger, Koesten, Landwehr, Lewis, Markley, Mason, Mastroni, Osterman, F. Patton, Phillips, R. Powell, Proehl, Rafie, Rahjes, Ralph, Resman, Ryckman, Schreiber, Schroeder, Schwab, Seiwert, Sloan,



Smith, A., Smith, E., Sutton, Tarwater, Thimesch, Thompson, Trimboli, Vickrey, Waymaster, Weber, C., Wheeler, Whitmer, K. Williams.

Present but not voting: None.

Absent or not voting: Gallagher, Henderson, Karleskint, Kuether, Ruiz, Winn, Wolfe Moore.

The Curtis motion to amend **HB 2361** did not prevail.

Also, on motion of Rep. Hodge to amend **HB 2361** Rep. Neighbor requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment was germane. Roll call was demanded on the motion of Rep. Hodge to amend **HB 2361 on page 1, following line 6, by inserting:**

"Section 1. K.S.A. 2017 Supp. 44-510h is hereby amended to read as follows: 44-510h. (a) It shall be the duty of the employer to provide pay for the services of a health care provider designated by the injured worker, and such the medical, surgical and hospital treatment, including nursing, medicines, medical and surgical supplies, ambulance, crutches, apparatus and transportation to and from the home of the injured employee to a place outside the community in which such the employee resides, and within such the community if the director, in the director's discretion, so orders, including transportation expenses computed in accordance with subsection (a) of K.S.A. 44-515(a), and amendments thereto, as may be reasonably necessary to cure and relieve the employee from the effects of the injury.

(b) (1) If the director finds, upon application of an injured employee, that the services of the health care provider furnished as provided in subsection (a) and rendered on behalf of the injured employee are not satisfactory, the director may authorize the appointment of some other health care provider. In any such case, the employer shall submit the names of two health care providers who, if possible given the availability of local health care providers, are not associated in practice together. The injured employee may select one from the list who shall be the authorized treating health care provider. If the injured employee is unable to obtain satisfactory services from any of the health care providers submitted by the employer under this paragraph, either party or both parties may request the director to select a treating health care provider.

(2) Without application or approval, an employee may consult a health care provider of the employee's choice for the purpose of examination, diagnosis or treatment, but the employer shall only be liable for the fees and charges of such the health care provider up to a total amount of \$500. The amount allowed for such the examination, diagnosis or treatment shall not be used to obtain a functional impairment rating. Any medical opinion obtained in violation of this prohibition shall not be admissible in any claim proceedings under the workers compensation act.

(c) An injured employee whose injury or disability has been established under the workers compensation act may rely, if done in good faith, solely or partially on treatment by prayer or spiritual means in accordance with the tenets of practice of a church or religious denomination without suffering a loss of benefits subject to the following conditions:

(1) The employer or the employer's insurance carrier agrees thereto in writing either before or after the injury;

(2) the employee submits to all physical examinations required by the workers compensation act;

(3) the cost of such the treatment shall be paid by the employee unless the employer or insurance carrier agrees to make such the payment;

(4) the injured employee shall be entitled only to benefits that would reasonably have been expected had such the employee undergone medical or surgical treatment; and

(5) the employer or insurance carrier that made an agreement under paragraph (1) or (3) of this subsection may withdraw from the agreement on 10 days' written notice.

(d) In any employment to which the workers compensation act applies, the employer shall be liable to each employee who is employed as a duly authorized law enforcement officer, firefighter, driver of an ambulance as defined in subsection (b) of K.S.A. 65-6112(d), and amendments thereto, an ambulance attendant as defined in subsection (d) of K.S.A. 65-6112(f), and amendments thereto, or a member of a regional emergency medical response team as provided in K.S.A. 48-928, and amendments thereto, including any person who is serving on a volunteer basis in such capacity, for all reasonable and necessary preventive medical care and treatment for hepatitis to which such the employee is exposed under circumstances arising out of and in the course of employment.

(e) It is presumed that the employer's obligation to provide the services of a health care provider, and such the medical, surgical and hospital treatment, including nursing, medicines, medical and surgical supplies, ambulance, crutches, apparatus and transportation to and from the home of the injured employee to a place outside the community in which such the employee resides, and within such the community if the director, in the director's discretion, so orders, including transportation expenses computed in accordance with subsection (a) of K.S.A. 44-515(a), and amendments thereto, shall terminate upon the employee reaching maximum medical improvement. Such The presumption may be overcome with medical evidence that it is more probably true than not that additional medical treatment will be necessary after such the time as that the employee reaches maximum medical improvement. The term "medical treatment" as used in this subsection (e) means only that treatment provided or prescribed by a licensed health care provider and shall not include home exercise programs or over-the-counter medications.";

On page 5, in line 34, after "Supp." by inserting "44-510h,";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "concerning" by inserting "workers compensation; choice of health care provider by injured worker;"; in line 3, after "Supp." by inserting "44-510h,"

On roll call, the vote was: Yeas 43; Nays 75; Present but not voting: 0; Absent or not voting: 7.

Yeas: Alcalá, Baker, Ballard, Becker, Bishop, Burroughs, Carlin, Carmichael, Clayton, Crum, S., Curtis, Deere, Dierks, Finney, Frownfelter, Gartner, Good, Helgerson, Highberger, Hodge, Holscher, Horn, Lusk, Lusker, Miller, Murnan, Neighbor, Ohaebosim, Ousley, Parker, Phelps, Pittman, Probst, Rooker, Sawyer, Sloan, Stogsdill, S. Swanson, Trimmer, Victors, Ward, Weigel, Whipple.

Nays: Alford, Arnberger, Aurand, Awerkamp, Barker, Bergquist, Blex, Brim, Burris, B. Carpenter, Claeys, Clark, Concannon, Corbet, Cox, E. Davis, Delperdang, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Francis, Garber, Hawkins, Hibbard, Highland,

Hineman, Hoffman, Houser, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Kelly, Kessinger, Koesten, Landwehr, Lewis, Markley, Mason, Mastroni, Orr, Osterman, F. Patton, Phillips, R. Powell, Proehl, Rafie, Rahjes, Ralph, Resman, Ryckman, Schreiber, Schroeder, Schwab, Seiwert, Smith, A., Smith, E., Sutton, Tarwater, Thimesch, Thompson, Trimboli, Vickrey, Waymaster, Weber, C., Wheeler, Whitmer, K. Williams.

Present but not voting: None.

Absent or not voting: Gallagher, Henderson, Karleskint, Kuether, Ruiz, Winn, Wolfe Moore.

The motion of Rep. Hodge did not prevail; and the bill be passed as amended.

**HB 2464** be passed over and retain a place on the calendar.

Committee report to **HB 2534** be adopted.

Also, on motion of Rep. E. Smith, **HB 2534** be amended on page 7, following line 17, by inserting:

"Excessive acceleration section 1 \$100";

On page 10, by striking all in line 32 ; and the bill be passed as amended.

Committee report to **HB 2551** be adopted; and the bill be passed as amended.

Committee report to **HB 2454** be adopted; and the bill be passed as amended.

Committee report to **HB 2600** be adopted; and the bill be passed as amended.

## REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **HB 2478** be amended on page 1, following line 7, by inserting:

"Section 1. K.S.A. 2017 Supp. 2-1014 is hereby amended to read as follows: 2-1014. (a) No manufacturer, importer, jobber, firm, association, corporation or person shall sell, offer or expose for sale or distribute in this state any commercial feeding stuffs unless such person holds a valid license for each manufacturing or distribution facility in this state. No license shall be required of persons distributing only packages or containers of a licensed manufacturer, importer, jobber, firm, association, corporation or person as packaged and labeled by the manufacturer, importer, jobber, firm, association, corporation or person and whose name and address appear on the label as required in K.S.A. 2-1002, and amendments thereto. Any out-of-state manufacturer, importer, jobber, firm, association, corporation or person who has no distribution facility within this state shall obtain a license for such entity's principal out-of-state office if such out-of-state manufacturer, importer, jobber, firm, association, corporation, person or other entity sells, offers or exposes for sale or distributes any commercial feeding stuffs in this state. Application shall be made on forms prescribed and furnished by the secretary of agriculture. The application shall be accompanied by an annual license fee of \$10. Licenses shall be renewed annually on or before July 1. Any licensee who fails to renew such license annually on or before July 1 shall be required to pay a late fee not to exceed 40% of the current license fee or \$100, whichever is less.

(b) The secretary, pursuant to rules and regulations, may deny, suspend, revoke or refuse to renew the commercial feed license if the applicant or the licensee of any

manufacturing or distribution facility is not in compliance with the provisions of article 10 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations promulgated thereunder. The secretary may deny, suspend, revoke or refuse to renew any commercial feed license subsequently found not to be in compliance with any provision of article 10 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations promulgated thereunder. No commercial feed license shall be denied, suspended, revoked or refused renewal unless the applicant or licensee has been given an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act.

(c) The secretary, pursuant to rules and regulations, may request copies of labels and labeling in order to determine compliance with the requirements of article 10 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 2. K.S.A. 2017 Supp. 2-1421a is hereby amended to read as follows: 2-1421a.

(a) (1) Each wholesaler shall register with the secretary and shall pay a registration fee not to exceed \$300. The current wholesale registration fee is hereby set at \$175 and shall remain at that amount until changed by rules and regulations of the secretary.

(2) Each retailer shall register with the secretary and shall pay a registration fee not to exceed \$30. The current retailer registration fee is hereby set at \$10 and shall remain at that amount until changed by rules and regulations of the secretary.

(3) Registration shall be required for each place of business at which agricultural seed is sold, offered or exposed for sale by the wholesaler or retailer.

(4) An individual who conducts a wholesaler and retailer business at the same location shall be required to register as both a wholesaler and retailer.

(b) Application for registration shall be made on a form provided by the secretary. Each registration for a wholesaler or retailer shall expire on August 31 following the date of issuance ~~unless such registration is renewed annually. Failure to renew any such registration on or before August 31 of each year shall require payment of a late fee not to exceed 40% of the current applicable registration fee or \$100, whichever is less.~~

(c) Each seed conditioner shall register with the secretary. Such seed conditioner registration shall require no registration fee and shall be a biennial registration. Any seed conditioner who is ceasing to do business as a seed conditioner shall notify the Kansas department of agriculture within 30 days of ceasing to do business.

(d) As used in this section, "agricultural seed" shall include grain when sold as such, or when sold according to grain standards and the seller knows, or has reason to know, that the grain is to be used for seeding or planting purposes.

(e) The secretary shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the agricultural seed fee fund which is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or a person or persons designated by the secretary.

(f) All moneys credited to the agricultural seed fee fund shall be expended for any purpose consistent with the Kansas seed law.

(g) The secretary may adopt rules and regulations necessary to administer the provisions of this act.

(h) This section shall be part of and supplemental to the Kansas seed law, K.S.A. 2-1415 et seq., and amendments thereto.";

Also on page 1, in line 26, by striking "equal to" and inserting "not to exceed"; also in line 26, after the second "fee" by inserting "or \$100, whichever is less,";

On page 3, in line 12, by striking "equal to" and inserting "not to exceed"; in line 13, after "fee" by inserting "or \$100, whichever is less";

On page 4, in line 8, after the period by inserting "Failure to renew such registration prior to January 1 of each year shall result in a late fee not to exceed 40% of the current registration fee or \$100, whichever is less."; in line 43, by striking "\$25" and inserting "\$100"; also in line 43, by striking "equal to" and inserting "not to exceed";

On page 5, in line 1, by striking "greater" and inserting "less"; following line 8, by inserting:

"Sec. 6. K.S.A. 2017 Supp. 2-2445a is hereby amended to read as follows: 2-2445a. In lieu of obtaining a commercial applicator's certificate under the provisions of K.S.A. 2-2441a, and amendments thereto, a private applicator's certificate may be applied for by and issued to individuals using restricted use pesticides for the purpose of producing any agricultural commodity on property owned or rented by the individual or such individual's employer, or on the property of another for no compensation other than the trading of personal services between producers. Such certificates shall expire on the anniversary of the individual's date of birth occurring in the fifth calendar year following the year of issue. No certification shall be required hereunder for individuals operating under the supervision of a certified private applicator.

Certified private applicator certificates may be issued to individuals who have paid: (a) A fee fixed by rules and regulations adopted by the secretary, except that on and after July 1, 2023, such fee shall not exceed \$10; and (b) who have acquired practical knowledge of pest problems, proper storage, use, handling and disposal of pesticides and pesticide containers, pertinent information found on the pesticide labels, pesticide use safety and environmental considerations, either through Kansas state university extension service educational training or through individual study of educational materials available at county extension offices or the secretary. The certified private applicator certificate fee in effect on the day preceding the effective date of this act shall continue in effect until the secretary adopts rules and regulations fixing a different fee therefor under this section. Individuals shall indicate adequate knowledge of the subjects enumerated herein by passing an open-book examination approved by the secretary. Individuals who submit the required certificate fee after the expiration of such individual's certificate shall be required to pay a late fee not to exceed 40% of the certificate fee or \$100, whichever is less.

Educational materials and examination blanks shall be made available at county extension offices and at places where extension educational training is conducted. The examinations shall be scored by members of the extension or secretary's staff. If an individual passes the examination by equaling or exceeding a standard authorized by the secretary, a certified private applicator's certificate shall be issued to such individual. Such staff member shall send a copy of the certificate issued, together with the fee, to the secretary.

A certified applicator who holds a current certificate to apply pesticides as a certified private applicator in any other state or political subdivision of the United States may be exempted from examination for private applicator certification in this state upon

payment of proper fees and approval by the secretary.

Sec. 7. K.S.A. 2017 Supp. 2-2446 is hereby amended to read as follows: 2-2446.

(a) A commercial applicator's certification may be renewed for a succeeding three-year period by paying the fees prescribed in K.S.A. 2-2441a, and amendments thereto, passing the examinations provided for in K.S.A. 2-2443a, and amendments thereto, and completing the renewal application form prescribed by the secretary.

(b) In lieu of such examinations, the secretary may accept attendance and satisfactory completion of a training course approved by the secretary. If certification is renewed by training, the renewal application form shall be accompanied by a recertification-by-training fee of \$50 per category unless a fee not to exceed \$50 is established in rules and regulations adopted by the secretary.

(c) ~~(1)~~ A certified commercial applicator may recertify by training following the expiration of the certification period, if:

~~(A)~~ All training requirements were completed during the certification period; and

~~(B)~~ the renewal application form and all appropriate fees were received by the secretary on or before 30 days following expiration of the certification period.

(2) Failure to renew such certification before 30 days following expiration of the certification period shall result in a late fee not to exceed 40% of the current renewal application fee or \$100, whichever is less.

(d) A private applicator's certification may be renewed for a succeeding five-year period by paying the fee prescribed in K.S.A. 2-2445a, and amendments thereto, passing the examination provided for in K.S.A. 2-2445a, and amendments thereto, and completing the renewal application form prescribed by the secretary. Such examination shall be offered by the secretary by mail. County extension agricultural meetings shall include pertinent pesticide information for private applicators.

(e) A pest control technician's registration may be renewed for a succeeding one-year period by paying the fees prescribed in K.S.A. 2-2440b, and amendments thereto, completing the renewal form prescribed by the secretary, and completing any requirements concerning retraining prescribed by rules and regulations.

Sec. 8. K.S.A. 2017 Supp. 2-2469 is hereby amended to read as follows: 2-2469.

(a) Each person who is a pesticide dealer shall register with the secretary. Registration shall be required for each business location distributing pesticides and shall be on a form provided by the secretary. Each registration shall expire on June 30 following issuance unless such registration is renewed annually. A registration fee of \$20 shall accompany the application. Failure to renew such registration prior to July 1 of each year shall require payment of a late fee not to exceed 40% of the current registration fee or \$100, whichever is less.

(b) The provisions of this section shall not apply to a licensed pesticide business which sells pesticides only as an integral part of such business' pesticide application service when the pesticides are dispensed only through equipment used for this pesticide application, nor to the sale of general use pesticides purchased for household use only, nor to any federal, state, county or municipal agency which provides pesticides only for its own programs nor to any individual who is the final purchaser of a pesticide for application to property or property rights owned, leased, or otherwise acquired by such person.

(c) Each registered pesticide dealer is responsible for the acts of each individual

employed by such dealer in the solicitation and sale of pesticides and for all claims and recommendations for use of pesticides made by such employees. The dealer's registration shall be subject to denial, suspension, or revocation after notice and opportunity for a hearing are given in accordance with the provisions of the Kansas administrative procedure act for any violation of this act whether committed by the dealer or by the dealer's officers, agents or employees.

(d) All fees received under this section shall be remitted to the state treasurer in accordance with K.S.A. 2-2464a, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and 75% of such amount shall be credited to the pesticide use fee fund and 25% of each such amount shall be credited to the publications fee fund of the Kansas department of agriculture.

Sec. 9. K.S.A. 2017 Supp. 2-2805 is hereby amended to read as follows: 2-2805. Each soil amendment product shall be registered with the secretary before it is distributed in this state. Application for registration shall be submitted to the secretary, on a form prepared for that purpose, showing the information required on the label, as provided in K.S.A. 2-2804, and amendments thereto, except net weight of product. The registration fee shall be fixed by rules and regulations adopted by the secretary of agriculture for each product, except that such fee shall not exceed \$100 for each product. The soil amendment product registration fee in effect on the day preceding the effective date of this act shall continue in effect until the secretary of agriculture adopts rules and regulations fixing a different fee therefor under this section. All registrations shall expire on December 31 of the year in which such soil amendment product is registered. Failure to renew such registration on or before December 31 of the year in which such soil amendment product was registered shall require payment of a late fee not to exceed 40% of the current registration fee or \$100, whichever is less. The applicant shall submit with the application for registration a copy of the label and a copy of all advertisements, brochures, posters and television and radio announcements to be used in promoting the sale of the soil amendment.";

Also on page 5, in line 36, by striking "\$25" and inserting "\$100"; also in line 36, by striking "equal to" and inserting "not to exceed"; in line 37, by striking "greater" and inserting "less";

On page 6, in line 4, after the period by inserting "Failure to renew such license on or before September 30 of each year shall result in a late fee not to exceed 40% of the current application fee or \$100, whichever is less."; in line 17, after the period by inserting "Failure to renew such license on or before September 30 of each year shall result in a late fee not to exceed 40% of the current annual license fee or \$100, whichever is less."; in line 22, after the period by inserting "Failure to renew any license or permit on or before September 30 of each year shall result in a late fee not to exceed 40% of the current application fee or \$100, whichever is less.";

On page 7, in line 6, after the period by inserting "Failure to pay any such annual license fee on or before September 30 of each year shall result in a late fee not to exceed 40% of the current license fee or \$100, whichever is less.";

On page 8, in line 35, after the period by inserting "Failure to renew such license on or before September 30 of each year shall result in a late fee not to exceed 40% of the current registration or renewal fee or \$100, whichever is less.";

On page 9, in line 8, after the period by inserting "Failure to renew such permit on or

before September 30 of each year shall result in a late fee not to exceed 40% of the current application fee or \$100, whichever is less.";

On page 10, following line 27, by inserting:

"Sec. 17. K.S.A. 49-623 is hereby amended to read as follows: 49-623. (a) The director, with the approval of the commission, shall adopt such rules and regulations as necessary to administer and enforce the provisions of this act.

(b) The commission shall determine annually the amount necessary to carry out and enforce the provisions of this act for the next ensuing fiscal year and shall recommend to the director such license renewal, registration application, registration ~~and~~ registration renewal and late fees as the commission determines necessary for that purpose. The director shall adopt such fees by rule and regulation.

(c) Fees for license renewal, registration and registration renewal shall be based on an operator's acres of affected land or the tonnage of materials extracted by the operator during the preceding license year, or a combination thereof.

(d) Political subdivisions of the state shall be exempt from all fees imposed under this act.";

On page 11, in line 4, by striking "equal"; in line 5, by striking "to" and inserting "not to exceed"; also in line 5, after "fee" by inserting "or \$100, whichever is less";

On page 12, following line 4, by inserting:

"Sec. 19. K.S.A. 2017 Supp. 65-778 is hereby amended to read as follows: 65-778.

(a) Any person who engages in business as a dairy manufacturing plant shall first apply for and obtain a dairy manufacturing plant license from the secretary and shall pay a license fee of \$120, or commencing July 1, 2002, and ending June 30, 2023, a license fee of \$200.

(b) Any person who engages in business as a distributor of milk, milk products or dairy products shall first apply for and obtain a milk distributor license from the secretary and shall pay a license fee of \$120, or commencing July 1, 2002, and ending June 30, 2023, a license fee of \$200. No milk distributor license shall be required for a licensed dairy manufacturing plant which distributes only those products which it manufactures.

(c) Any person who engages in business as a milk hauler shall first apply for and obtain a milk hauler license from the secretary and shall pay a license fee of \$25 or commencing July 1, 2002, and ending June 30, 2023, a license fee of \$35. As part of the application, the secretary may require the applicant to be tested regarding proper procedures for sampling, testing and weighing milk or cream and state laws and rules and regulations.

(d) Any person who operates a milk or cream transfer station or milk or cream receiving station shall first apply for and obtain a milk or cream station license from the secretary and shall pay a license fee of \$50, or commencing July 1, 2002, and ending June 30, 2023, a license fee of \$100.

(e) Any person who engages in business as a manufacturer of single service dairy containers or manufacturer of single service dairy container closures shall first apply for and obtain a single service manufacturing license from the secretary and shall pay a license fee of \$50, or commencing July 1, 2002, and ending June 30, 2023, a license fee of \$100.

(f) Any person who operates a milk tank truck cleaning facility shall first apply for and obtain a milk tank truck cleaning facility license from the secretary and shall pay a



license fee of \$100.

(g) Any license issued under this section shall be renewed annually. The failure of any licensee to renew a license according to the provisions of subsection (h) shall be required to pay a late fee not to exceed 40% of the current license fee or \$100, whichever is less.

(h) The dairy manufacturing plant license, milk distributor license, milk tank truck cleaning facility license, milk or cream station license and single service manufacturing license shall expire on December 31 of the year for which it was issued unless suspended or revoked by the secretary pursuant to this act. The milk hauler license shall expire on June 30 following the date of issuance unless suspended or revoked by the secretary pursuant to this act.

(i) No license issued under this section shall be transferable. No license shall be renewed if any assessments or fees required under this act are delinquent.

(j) Each applicant for a license or for the renewal of such license shall submit an application on a form supplied by the secretary accompanied by the license fee. All licenses shall be conspicuously displayed in the applicant's place of business.

(k) The secretary shall reduce any license fee in subsections (a) through (f) by adopting rules and regulations whenever the secretary determines that such fee is yielding more than is necessary for administering the provisions of this act. The secretary may increase any license fee in subsections (a) through (f) by adopting rules and regulations when such license fee is necessary to produce sufficient revenues for administering the provisions of this act. License fees in subsections (a) through (f) shall not be increased in excess of the maximum amounts provided in this section.

Sec. 20. K.S.A. 2017 Supp. 74-576 is hereby amended to read as follows: 74-576. In addition to the specific powers and duties conferred upon the secretary of agriculture by the laws of this state, the secretary is hereby authorized to:

(a) Make and enter into contracts and agreements necessary or incidental to the execution of the laws relating to the department of agriculture;

(b) charge and collect, by order, a fee necessary for the administration and processing of paper documents, including applications, registrations, permits, licenses, certifications, renewals, reports and remittance of fees that are necessary or incidental to the execution of the laws relating to the department of agriculture, when an electronic system for processing such documents exists. Such fee shall be in addition to any fee the secretary is authorized to charge by law and may be up to 6% of such applicable fee amount, but shall not exceed \$50; ~~and~~

(c) charge and collect, pursuant to rules and regulations adopted by the secretary, a late fee for any license, permit or registration required by the laws relating to the department of agriculture that is not renewed prior to the expiration of such license, permit or registration. Any such adopted late fee shall not exceed 40% of the current applicable license, permit or registration fee or \$100, whichever is less; and

(d) foster and promote the development and economic welfare of the agricultural industry of the state.

Sec. 21. K.S.A. 2017 Supp. 83-302 is hereby amended to read as follows: 83-302.

(a) (1) Each person, other than an authorized representative of the secretary or an authorized representative of a city or county department of public inspection of weights and measures established pursuant to K.S.A. 83-210, and amendments thereto, desiring to operate and perform testing and other services as a company in Kansas shall apply to

the secretary for a service company license, on a form to be supplied by the secretary, and shall obtain such license from the secretary before operating and performing testing or other services as a service company. Each service company shall obtain a license for each place of business maintained in Kansas and shall pay a license application fee of \$50.

(2) Beginning with the 2017 license year, the secretary may, by order, set the license application fee, not to exceed the maximum fee stated herein:

(A) Commencing July 1, 2017, the license application fee shall not exceed \$100.

(B) Commencing July 1, 2019, the license application fee shall not exceed \$110.

(C) Commencing July 1, 2021, the license application fee shall not exceed \$120.

(D) Commencing July 1, 2023, and thereafter, the license application fee shall not exceed \$130.

(3) Each service company license shall expire on June 30 following issuance, shall be void unless renewed prior to the expiration and shall not be transferable. The license renewal fee shall be equal to the license application fee as provided in this section for each place of business. Any license renewal fee received by the secretary on or after July 1 of each year shall be accompanied by a late fee not to exceed 40% of the license renewal fee or \$100, whichever is less.

(b) If any service company maintains any out-of-state places of business which the company operates in serving Kansas patrons, the service company seeking to obtain or renew a license under this section shall list in the application such places of business and the firm names under which the company operates at each such place of business. If any out-of-state place of business is established by a service company after being licensed under this section, the licensee shall supply such information to the secretary before any work is performed in Kansas from such out-of-state location. Each nonresident service company shall designate a resident agent upon whom service of notice or process may be made to enforce the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any liabilities arising from operations thereunder. Each nonresident service company which maintains no established place of business in Kansas shall obtain a license under this section for each out-of-state place of business and shall list on the application the firm name or names for each place of business from which the service company intends to operate.

(c) (1) Each technical representative shall be licensed annually by the secretary. Except as provided in paragraph (2), each technical representative shall be required to attend continuing education seminars on an annual basis as required by rules and regulations adopted by the secretary and to pass a reasonable examination prescribed by the secretary each year prior to being licensed. Each technical representative's license shall expire on June 30 following the issuance of the license and shall be void unless renewed prior to the expiration.

(2) Beginning on July 1, 2017, each technical representative who has had 10 years of continuous licensure with no administrative enforcement action adjudicated against such technical representative during such 10-year period shall be eligible to obtain a three-year license. The secretary shall implement, by order, the fee for such three-year license, which shall be an amount not to exceed \$300. Each technical representative holding a three-year license shall be required to complete continuing education as described in subsection (c)(1) at a frequency not to exceed once per three-year period. The secretary may promulgate rules and regulations to require any technical

representative who has been adjudicated in violation of this act or any rules and regulations promulgated by the secretary, to seek renewal of a license on an annual basis and may establish criteria for reinstatement of eligibility for a three-year license.

(3) The department of agriculture is authorized to charge a fee to the attendees of continuing education seminars sponsored by the department. The amount of such fee shall be no more than is necessary to cover the expenses incurred by providing the seminar.

(d) No service company license may be issued or renewed under this section until the applicant's weights or measures, or both have been tested for accuracy and sealed by the secretary. The secretary is authorized to accept a certification of the accuracy of the applicant's weights or measures issued by the national institute of standards and technology or by a weights and measures laboratory certified by the national institute of standards and technology in lieu of a test by the secretary, if such certificate shows that the weights or measures have been tested within the last 365 days preceding the license application.

(e) The secretary shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the weights and measures fee fund.

Sec. 22. K.S.A. 2017 Supp. 83-402 is hereby amended to read as follows: 83-402.

(a) (1) Each person, other than an authorized representative of the secretary or an authorized representative of a city or county department of public inspection of weights and measures established pursuant to K.S.A. 83-210, and amendments thereto, desiring to operate and perform testing and other services as a service company in Kansas shall apply to the secretary for a service company license, on a form to be supplied by the secretary, and shall obtain such license from the secretary before operating and performing testing or other services as a service company. Each service company shall obtain a license for each place of business maintained in Kansas and shall pay a license application fee of \$50.

(2) Beginning with the 2017 license year, the secretary may, by order, set the license application fee, not to exceed the maximum fee stated herein:

(A) Commencing July 1, 2017, the license application fee shall not exceed \$100.

(B) Commencing July 1, 2019, the license application fee shall not exceed \$110.

(C) Commencing July 1, 2021, the license application fee shall not exceed \$120.

(D) Commencing July 1, 2023, and thereafter, the license application fee shall not exceed \$130.

(3) Each service company license shall expire on June 30 following issuance, shall be void unless renewed prior to the expiration and shall not be transferable. The license renewal fee shall be equal to the license application fee as provided in this section for each place of business. Any license renewal fee received by the secretary on or after July 1 of each year shall be accompanied by a late fee not to exceed 40% of the license renewal fee or \$100, whichever is less.

(b) If any service company maintains any out-of-state places of business which the service company operates in serving Kansas patrons, the service company seeking to obtain or renew a license under this section shall list in the application such places of business and the firm names under which the service company operates at each such place of business. If any out-of-state place of business is established by a service

company after being licensed under this section, the licensee shall supply such information to the secretary before any work is performed in Kansas from such out-of-state location. Each nonresident service company shall designate a resident agent upon whom service of notice or process may be made to enforce the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any liabilities arising from operations thereunder. Each nonresident service company which maintains no established place of business in Kansas shall obtain a license under this section for each out-of-state place of business and shall list on the application the firm name or names for each place of business from which the service company intends to operate.

(c) (1) Each technical representative shall be licensed annually by the secretary. Except as provided in paragraph (2), each technical representative shall be required to attend continuing education seminars on an annual basis as required by rules and regulations adopted by the secretary and to pass a reasonable examination prescribed by the secretary each year prior to being licensed. Each technical representative's license shall expire on June 30 following the issuance of the license and shall be void unless renewed prior to the expiration.

(2) Beginning on July 1, 2017, each technical representative who has had 10 years of continuous licensure with no administrative enforcement action adjudicated against such technical representative during such 10-year period shall be eligible to obtain a three-year license. The secretary shall implement, by order, the fee for such three-year license, which shall be an amount not to exceed \$300. Each technical representative holding a three-year license shall be required to complete continuing education as described in subsection (c)(1) at a frequency not to exceed once per three-year period. The secretary may promulgate rules and regulations to require any technical representative who has been adjudicated in violation of this act or any rules and regulations promulgated by the secretary, to seek renewal of a license on an annual basis and may establish criteria for reinstatement of eligibility for a three-year license.

(3) The Kansas department of agriculture is authorized to charge a fee to the attendees of continuing education seminars sponsored by the department. The amount of such fee shall be no more than is necessary to cover the expenses incurred by providing the seminar.

(d) No service company license may be issued or renewed under this section until the applicant's weights or measures, or both, have been tested for accuracy and sealed by the secretary. The secretary is authorized to accept a certification of the accuracy of the applicant's weights or measures issued by the national institute of standards and technology or by a weights and measures laboratory certified by the national institute of standards and technology in lieu of a test by the secretary, if such certificate shows that the weights or measures, or both, have been tested within the last 365 days preceding the license application.

(e) The secretary shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the weights and measures fee fund.";

Also on page 12, in line 5, after "47-1208" by inserting "and 49-623"; also in line 5, after "Supp." by inserting "2-1014, 2-1421a,"; in line 6, after the first comma by inserting "2-2445a, 2-2446, 2-2469, 2-2805,"; also in line 6, by striking "and" and inserting a comma; also in line 6, after "65-691" by inserting ", 65-778, 74-576, 83-302

and 83-402";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, after the semicolon by inserting "authorizing the Kansas secretary of agriculture to charge and collect a late fee for any license, permit or registration that is not renewed prior to expiration;"; also in line 3, after "47-1208" by inserting "and 49-623"; in line 4, after "Supp." by inserting "2-1014, 2-1421a,"; also in line 4, after the third comma by inserting "2-2445a, 2-2446, 2-2469, 2-2805,"; in line 5, by striking the first "and" and inserting a comma; also in line 5, after "65-691" by inserting ", 65-778, 74-576, 83-302 and 83-402"; and the bill be passed as amended.

Committee on **Agriculture** recommends **HB 2583** be amended on page 1, in line 15, by striking "any"; also in line 15, by striking "or tangible object"; also in line 15, by striking all after "that"; in line 16, by striking all before "noxious" and inserting "harbors or carries";

On page 2, in line 9, by striking "11" and inserting "13"; in line 35, by striking "11" and inserting "13"; in line 42, by striking "11" and inserting "13";

On page 3, in line 4, after "extension" by inserting ", with one such member having knowledge of non-chemical methods of weed control,"; in line 15, by striking "and"; in line 16, after "(7)" by inserting "one member shall be a Kansas farmer who grows non-traditional Kansas crops, which, for the purposes of this paragraph, means any crop except wheat, corn, soybeans, milo, peanuts, cotton, hay or oats;

(8) one member shall be appointed upon the recommendation of the Kansas biological survey; and

(9); in line 21, by striking "Four" and inserting "Six"; in line 36, by striking "six" and inserting "a majority";

On page 4, in line 9, after "secretary" by inserting "that include both chemical and non-chemical options for such control and eradication"; in line 19, after "to" by inserting "knowingly"; in line 20, by striking "knowingly"; in line 28, by striking "grains, crops,"; in line 29, by striking the comma and inserting "or"; also in line 29, by striking "or feed"; in line 39, after "shall" by inserting ", when the presence of noxious weed material or seeds is known,";

On page 10, in line 23, after "(a)" by inserting "(1)"; in line 33, after the period by inserting:

"(2)";

Also on page 10, in line 36, after "so" by inserting "without submitting a plan to the board of county commissioners detailing how and when the noxious weed control will be carried out";

On page 13, in line 5, by striking all after "jurisdiction"; in line 6, by striking all before "at"; by striking all in lines 7 through 17; in line 18, by striking all before the period; in line 19, by striking all after "(c)"; by striking all in lines 20 through 34; in line 35, by striking "(d)";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 14, in line 18, after "shall" by inserting "knowingly"; in line 22, by striking "\$200" and inserting "\$100"; in line 23, by striking "or each violation" and inserting "up to a maximum fine of \$1,500"; in line 25, before "The" by inserting "(a) Subject to subsection (b),"; following line 32, by inserting:

"(b) Any individual conducting an inspection pursuant to subsection (a) upon

private property shall, before or immediately upon entering any such premises:

- (1) Attempt to notify, if practicable, the owner, operator or lessee of the premises of the purpose for the inspection; and
  - (2) allow any such present and notified owner, operator or lessee of the premises, or any representative thereof, to accompany the individual conducting the inspection.";
- and the bill be passed as amended.

Upon unanimous consent, the House referred back to the regular business, Introduction of Bills and Concurrent Resolutions.

### **INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS**

The following bill was introduced and read by title:

**HB 2754**, AN ACT concerning children and minors; establishing the guardianship assistance program; providing for financial assistance to kinship care providers; relating to powers, duties and functions of the Kansas department for children and families, by Committee on Federal and State Affairs.

### **CHANGE OF REFERENCE**

Speaker Ryckman announced the withdrawal of **HB 2706** from the Calendar under the heading General Orders and referral to Committee on Appropriations.

### **COMMITTEE ASSIGNMENT CHANGES**

Speaker Ryckman announced the appointment of Rep. Trimboli to replace Rep. Schwab on Committee on Financial Institutions and Pensions.

Also, the appointment of Rep. Trimboli to replace Rep. Schwab on Committee on Insurance.

Also, the appointment of Rep. Trimboli to serve on Committee on Agriculture and Natural Resources Budget.

### **REPORT ON ENGROSSED BILLS**

**Sub HB 2147**, **HB 2628** reported correctly engrossed February 19, 2018.

On motion of Rep. Hineman, the House adjourned until 10:00 a.m., Wednesday, February 21, 2018.

JENNY HAUGH, JULIA WERNER, *Journal Clerks.*

SUSAN W. KANNARR, *Chief Clerk.*

