

# Journal of the Senate

TWENTY-SIXTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, February 17, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris.

The roll was called with thirty-nine senators present.

Senator Wagle was excused.

President Morris introduced as guest chaplain, Father Tim Haberkorn, Sacred Heart-St. Joseph Catholic Church, Topeka, Kansas, who delivered the invocation:

God of all Creation, we ask that you send us your blessings this day. May your grace guide us in the work that we have been called to accomplish this day. May we be mindful of the needs of all our brothers and sisters. Give us the wisdom and courage to work for the betterment of all peoples. Let us strive to build a much stronger community in which we live. Let us seek to promote the values of freedom and peace for all those we have been called to serve. Grant us your blessings today and always. We ask all these things in faith. Amen

The Pledge of Allegiance was led by President Stephen Morris.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 277**, An act concerning the judicial council; relating to the commission on judicial performance; funding the Kansas criminal code recodification commission; amending K.S.A. 20-2207, 20-2208 and 20-3207 and K.S.A. 2008 Supp. 20-3202 and 20-3205 and repealing the existing sections, by Committee on Ways and Means.

**SB 278**, An act concerning driving under the influence; creating the Kansas highway safety commission; relating to penalties; division of vehicles; district magistrate judges; jurisdiction; amending K.S.A. 20-302b and 20-329 and K.S.A. 2008 Supp. 8-1567 and repealing the existing sections, by Committee on Federal and State Affairs.

**SB 279**, An act concerning crimes, punishment and criminal procedure; relating to involuntary manslaughter while driving under the influence of alcohol or drugs; sentencing; amending K.S.A. 21-3442 and K.S.A. 2008 Supp. 21-4704 and repealing the existing sections, by Committee on Federal and State Affairs.

**SB 280**, An act concerning suspension and restriction of driving privileges; relating to persons less than 21 years of age; amending K.S.A. 2008 Supp. 8-1014 and repealing the existing section, by Committee on Ways and Means.

**SB 281**, An act concerning crimes, punishment and criminal procedure; relating to sentencing; severity level 4 drug crimes; amending K.S.A. 21-4611 and repealing the existing section, by Committee on Ways and Means.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Financial Institutions & Insurance: **HB 2091**, **HB 2092**, **HB 2185**.

Judiciary: **HB 2096**, **HB 2097**.

Transportation: **SB 276**.

**CHANGE OF REFERENCE**

The President withdrew **SB 12**, **SB 136**, **SB 174**, **SB 195** from the Committee on **Financial Institutions and Insurance**, and referred the bills to the Committee on **Ways and Means**.

The President withdrew **SB 182**, **SB 184**, **SB 214** from the Committee on **Natural Resources**, and referred the bills to the Committee on **Ways and Means**.

The President withdrew **SB 112**, **SB 157**, **SB 233**, **SB 234**, **SB 236** from the Committee on **Judiciary** and referred the bills to the Committee on **Ways and Means**.

The President withdrew **SB 217** from the Committee on **Utilities**, and referred the bill to the Committee on **Ways and Means**.

**MESSAGE FROM THE HOUSE**

Announcing passage of **HB 2003**, **HB 2004**, **HB 2007**, **HB 2039**, **HB 2059**, **HB 2147**.

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2003**, **HB 2004**, **HB 2007**, **HB 2039**, **HB 2059**, **HB 2147** were thereupon introduced and read by title.

**FINAL ACTION ON CONSENT CALENDAR**

**SB 123**, **SB 135**, **SB 137**, **SB 139**, **SB 156** having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

**SB 123**, An act relating to antique vehicles; concerning certain license plates; amending K.S.A. 2008 Supp. 8-172 and repealing the existing section.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Absent or Not Voting: Wagle.

The bill passed.

**SB 135**, An act concerning the Kansas open meetings act; relating to serial meetings; amending K.S.A. 2008 Supp. 75-4318 and repealing the existing section.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Absent or Not Voting: Wagle.

The bill passed.

**SB 137**, An act concerning viatical settlements; exempting actions by the securities commissioner from the viatical settlements act of 2002; amending K.S.A. 2008 Supp. 40-5012a and repealing the existing section.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Absent or Not Voting: Wagle.

The bill passed.

**SB 139**, An act relating to insurance; concerning deposits and securities; relating to the federal home loan bank; amending K.S.A. 40-2a20 and 40-2b20 and K.S.A. 2008 Supp. 40-229a and repealing the existing sections.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Absent or Not Voting: Wagle.

The bill passed.

**SB 156**, An act concerning corporations; relating to close corporations; amending K.S.A. 17-7207 and repealing the existing section.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Absent or Not Voting: Wagle.

The bill passed.

#### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**SB 25**, An act concerning crimes and punishments; relating to smoking and cigarette sales; amending K.S.A. 21-3105, 21-4009, 21-4010, 21-4011, 21-4012 and 65-530 and K.S.A. 2008 Supp. 79-3301 and 79-3321 and repealing the existing sections; also repealing K.S.A. 21-4016 and 21-4017, was considered on final action.

On roll call, the vote was: Yeas 26, Nays 13, Present and Passing 0, Absent or Not Voting 1.

Yeas: Barnett, Brownlee, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Kelly, Kelsey, Kultala, Lee, Lynn, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Nays: Abrams, Apple, Bruce, Donovan, Holland, Huelskamp, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Steineger.

Absent or Not Voting: Wagle.

The bill passed, as amended.

#### EXPLANATION OF VOTE

MR. PRESIDENT: Comments were made that indicated that those who oppose this bill don't care about the health of citizens, or are in the pocket of big tobacco.

I would suggest there is another reason.

Is it desirable to protect all of the state's citizens from those vices that have a negative impact on themselves or other citizens?

Is smoking the only individual right that some people choose to engage in even when they know it's to their detriment and even knowing that it might have a negative impact on others around them? How about gambling, or drinking alcohol?

So, the question becomes, does the force of government require every individual who enjoys a vice that is legal to then submit to having their rights subsumed within the concept of "the state knows what is best."

Just as there are already many laws regarding cigarettes, there are many laws concerned with the use of alcohol and regulating gambling. Should we continue to try and regulate them out of existence?

The State cannot, nor should it be in the business of infringing on the rights of its citizens, even when those rights are counterproductive to good health and well being of that same citizen.—STEVE E. ABRAMS

Senator Ostmeyer requests the record to show he concurs with the “Explanation of Vote” offered by Senator Abrams on **SB 25**.

MR. PRESIDENT: This vote reminds me of the child who says he may be sitting down on the outside but he is standing up on the inside. I vote yes for the health of Kansans. However, to exempt casinos is wrong.

Additionally, honey attracts more support than the sharp words of the bill’s author. I vote yes on **SB 25**.—KARIN BROWNLEE

MR. PRESIDENT: Like most of my constituents, I support a statewide smoking ban in public places. My community has made a similar decision on the local level which improved our quality of life.

Clearly the health impact of smoking on Kansans is severe. The data that smoking harms every Kansan exposed to it is overwhelming. I see this on a daily basis in my medical practice. It is a clear safety concern and has economic consequences.

This bill is imperfect and does not have the right balance. There has been hypocrisy from many sides. I am particularly troubled that this body has exempted state-owned businesses for economic reasons while denying private businesses—with which the state competes—the same consideration.

The debate has not been civil and less senatorial than Kansans expect from us. I believe the tone of the debate probably cost this body from coming up with a balance that would be supported by the vast majority of Kansans.

I hope we can work together with our colleagues in the House to find resolution to an issue that affects all Kansans.—JEFF COLYER

MR. PRESIDENT: I do have a strong belief in smaller government with an emphasis on personal and local control. There are compelling arguments on both sides so I must choose what I believe is the right thing to do for my district and for the entire state. As a former healthcare marketing director, my vote today is for the health of Kansans and a commitment to public health for our citizens. My constituents expressed their support of a statewide indoor clean air act. We have reached a tipping point within our state and the citizens of Kansas have tipped towards the fact that this is a public health issue that concerns everyone. I am proud of the leadership my district took by enacting their own ordinances. This bill reflects a commitment to public health and will strengthen our initiative to receive the National Cancer Institute designation. This is testimony to our progressive and innovative policy on behalf of all the citizens of Kansas. So I vote yes to a healthy Kansas, yes to public health, and yes to **SB 25**.

Thank you, Mr. President.—JULIA LYNN

MR. PRESIDENT: I vote NO. Yesterday, out of one side of the mouth, it was stated that if I disagreed with **SB 25** as it stood I was “in the pocket of big tobacco” and against health, yet out of the other side of the mouth voted to exempt “our” business, casinos, from the bill. I oppose this bill, not because I am in the pocket of tobacco, but because I am in the pocket of the people. How dare we openly recognize the negative effects of this bill by exempting our “state owned” business, but not consider the livelihood of our constituents who sent us here. I am not opposed to any kind of smoking ban, just this hypocritical one we have before us today.—TY MASTERSON

Senator Ostmeyer requests the record to show he concurs with the “Explanation of Vote” offered by Senator Masterson on **SB 25**.

#### INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Schodorf introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1825—

A RESOLUTION congratulating and commending  
the 2008 Kansas National Board Certified Teachers.

WHEREAS, Twenty-seven of Kansas’ finest educators have satisfied the highest professional qualifications of the National Board for Professional Teaching Standards to be des-

ignated as National Board Certified Teachers. They will be recognized as such at a program on February 19; and

WHEREAS, The 2008 Kansas National Board Certified Teachers are: Stacy Colhouer, Elmont Elementary School, Seaman USD 345; Monica Dreiling, Lincoln Elementary School, Hays USD 489; Pamela Fallis, Chaparral High School, Anthony-Harper USD 361; Freelon Goodson, Fort Riley Middle School, Geary County USD 475; Lori Greeson, Prairie Center Elementary School, Olathe USD 233; Claudia Griffith, Wichita West High School, Wichita USD 259; Jennifer Johnson, Blue Valley West High School, Blue Valley USD 229; Donna Lujano, Pleasant Valley Middle School, Wichita USD 259; Gena Mathes, Elmont Elementary School, Seaman USD 345; Patricia McKinney, Jackson Heights Elementary School, North Jackson USD 335; Abigail Neilburger, Blue Valley North High School, Blue Valley USD 229; Richard Nelson, Manhattan High School West/East Campus, Manhattan-Ogden USD 383; Sherry Nelson, Emporia High School, Emporia USD 253; Kathleen O'Keefe, Pleasant Valley Middle School, Wichita USD 259; Tyson Ostroski, Blue Valley West High School, Blue Valley USD 229; Judith Powell, Central Elementary School, Central USD 462; Joell Ramsdell, Arbor Creek Elementary School, Olathe USD 233; Leigh Rogers, Prairie Center Elementary School, Olathe USD 233; Debra Schapaugh, Frank V. Bergman Elementary School, Manhattan-Ogden USD 383; Gretchen Schmanke, Oregon Trail Jr. High School, Olathe USD 233; Regina Schutt, Linwood Elementary School, Wichita USD 259; Jennifer Sissell, Wichita Northwest High School, Wichita USD 259; Andrea Smith, Hocker Grove Middle School, Shawnee Mission USD 512; Jay Super, Maize Senior High School, Maize USD 266; Christine Walker, Arbor Creek Elementary School, Olathe USD 233; Charles Wells, Emporia High School, Emporia USD 253; Kristin Wright, Clay Center Middle School, Clay Center USD 379; and

WHEREAS, National Board Certification, a voluntary process established by the National Board for Professional Teaching Standards, is a symbol of professional teaching excellence. It is achieved through a performance-based assessment process that measures a teacher's practice against high and rigorous advanced standards to demonstrate accomplished practice. Through a series of assessments, teachers demonstrate their subject matter knowledge, provide evidence that they know how to teach their subjects to students most effectively, and demonstrate their ability to manage and measure student learning; and

WHEREAS, The National Board for Professional Teaching Standards is an independent, nonprofit, non-partisan and non-governmental organization. Its mission is to advance the quality of teaching and learning by: Maintaining high and rigorous standards for what accomplished teachers should know and be able to do; providing a national voluntary system certifying teachers who meet these standards; and advocating related education reforms to integrate National Board Certification in American education and to capitalize on the expertise of National Board Certified Teachers; Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend each of these outstanding educators who have attained the status of National Board Certified Teachers; and

*Be it further resolved:* That the Secretary of the Senate provide 27 enrolled copies of this resolution to the Commissioner of Education for forwarding to each of the teachers so honored plus a copy to the Commissioner of Education.

On emergency motion of Senator Schodorf **SR 1825** was adopted unanimously.

Senator Schodorf introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1826—

A RESOLUTION congratulating and commending  
the 2009 Horizon Award Program educators.

WHEREAS, Thirty-two beginning educators from across the state have been named as Kansas Horizon Award Program educators; and

WHEREAS, The Kansas Horizon Award Program, sponsored by Kansas State Department of Education, identifies and recognizes representatives of excellent teaching in the elementary and secondary classrooms of the state. The mission of the Kansas Horizon Award Program is to recognize exemplary first-year teachers who perform in a way that distinguishes them as outstanding; and

WHEREAS, The Kansas Horizon Award Program, currently in its seventh year, allows all school districts in the state an opportunity to nominate one elementary and one secondary teacher for the award. To be eligible for a Kansas Horizon Award, teachers must have successfully completed their first year of teaching and have performed in such a way as to distinguish themselves as outstanding. The Kansas Horizon Award Program is a regional competition with four regions corresponding to the state's United States congressional districts. Four elementary and four secondary classroom teachers may be selected for the award from each district; and

WHEREAS, This year's recipients are: Region 1: Rene Burns and Kathryn O'Loughlin, McCarthy Elementary School, Hays USD 489; Heidi Cabral, Eisenhower Elementary School, Great Bend USD 428; Daniel Dinkel, Sheridan Elementary School, Geary County USD 475; Gena Langley, Riverside Elementary School, Emporia USD 253; Brandi Lundgren, Junction City Middle School, Geary County USD 475; Tiffany Shogren, Emporia Middle School, Emporia USD 253; Teresa Sindelar, Buhler High School, Buhler USD 313; Lisa Twombly, Hiawatha Middle School, Hiawatha USD 415; and

Region 2: Jamie Anthony, Riley County High School, Riley County USD 378; Jodie Berve, Louisburg High School, Louisburg USD 416; Maeghan Bishop, Washburn Rural High School, Auburn Washburn USD 437; Catherine Drake, Central Elementary School, Wamego USD 320; Constance Hanika, Highland Park Central Elementary School, Topeka USD 501; Amanda Provorse, Washburn Rural Middle School, Auburn Washburn USD 437; Jamie Wagner, Tecumseh North Elementary School, Shawnee Heights USD 450; Andrew Wesner, Paola High School, Paola USD 368; and

Region 3: Audrey Baker, Pioneer Ridge Middle School, Gardner-Edgerton USD 231; David Davis, Harmony Middle School, Blue Valley USD 229; Chaussee Duren, Trailridge Middle School, Shawnee Mission USD 512; Molly Dykman, Delaware Ridge Elementary School, Bonner Springs USD 204; Kris Munsch, Bonner Springs High School, Bonner Springs USD 204; Kate Phillips, Liberty View Elementary School, Blue Valley USD 229; Amanda Vail, Prairie Park Elementary School, Lawrence USD 497; Katie Weil, Gardner Edgerton High School, Gardner-Edgerton USD 231; and

Region 4: Megan Belisle, Jefferson Elementary School, Wichita USD 259; Jessica Bloyd, Haysville Middle School, Haysville USD 261; April Davis, Freeman Elementary School, Haysville USD 261; Emily Huelskamp, Andover Central High School, Andover USD 385; Jacy Kile, Garfield Elementary School, Augusta USD 402; Dustin Murray, Andover Middle School, Andover USD 385; Kristin Tombaugh, Santa Fe Middle School, Newton USD 373; Blake Vargas, El Dorado Middle School, El Dorado USD 490: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend the 2009 Kansas Horizon Award Program educators for outstanding performance in their chosen career; and

*Be it further resolved:* That the Secretary of the Senate provide 32 enrolled copies of this resolution to the Commissioner of Education for forwarding to each educator so honored plus one copy for the Commissioner of Education.

On emergency motion of Senator Schodorf **SR 1826** was adopted unanimously.

Senator Schodorf introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1827—

A RESOLUTION congratulating and commending the Kansas recipient of the 2008 Milken Family Foundation National Educator Award.

WHEREAS, Vanessa Martinez, an assistant principal at Horace Mann Dual Language Magnet School, Wichita USD 259, has been selected as the Kansas recipient of the 2008 Milken Family Foundation National Educator Award. She will receive an unrestricted award of \$25,000 plus recognition by her community, school and peers; and

WHEREAS, The Milken National Educator Awards program was established by the Milken Family Foundation in 1985 and the first awards were presented in 1987; and

WHEREAS, The Milken Family Foundation National Educator Awards program provides public recognition and financial awards to elementary and secondary school teachers, principals and other educational professionals who are furthering excellence in education.

By honoring outstanding educators, the program strives to attract, retain and motivate talented people to the challenge and adventure of teaching; and

WHEREAS, The Milken National Educator Awards are announced each fall at surprise notifications held in all-school assemblies. Foundation representatives and the chief state school officer make the announcements. This year 48 states and the District of Columbia participated in the program. By publicizing these awards our communities are reminded of the crucial, positive impact of educators. Furthermore, it is hoped these awards will attract the attention of those who might consider teaching as a rewarding career choice: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend Vanessa Martinez upon her selection as the Kansas recipient of the 2008 Milken Family Foundation National Educator Award; and

*Be it further resolved:* That the Secretary of the Senate provide an enrolled copy of this resolution to the Commissioner of Education for forwarding to the 2008 Milken Educator.

On emergency motion of Senator Schodorf **SR 1827** was adopted unanimously.

#### REPORT ON ENROLLED BILLS

**H Sub for Sub SB 23** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 17, 2009.

**SR 1817, SR 1818, SR 1820, SR 1821, SR 1822, SR 1823, SR 1824** reported correctly enrolled, properly signed and presented to the Secretary of the Senate February 17, 2009.

#### REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **SB 203** be amended on page 2, after line 6, by inserting the following:

“(d) The secretary is authorized to receive lodging inspection reports from qualified individuals, private entities or public entities to determine compliance with lodging standards promulgated pursuant to the food service and lodging act, and amendments thereto. The secretary is authorized to promulgate such rules and regulations as are necessary to receive such inspection reports.”;

And by relettering the remaining subsection;

On page 3, in line 24, after the period by inserting “Any person not otherwise required to be licensed under this section who prepares, serves or sells food for the sole purpose of soliciting funds to be used for community projects, educational and youth activities or humanitarian purposes, shall not be required to obtain a license under this section.”; in line 41, by striking all after the period; by striking all in lines 42 and 43;

On page 4, by striking all in lines 1 through 6; in line 7, by striking all before “This”; and the bill be passed as amended.

Committee on **Assessment and Taxation** recommends **SB 228** be amended on page 5, in line 18, by striking “1995” and inserting “2009”; and the bill be passed as amended.

Committee on **Education** recommends **SB 162** be passed.

Committee on **Financial Institutions and Insurance** recommends **SB 49** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Also, **SB 39** be amended on page 1, in line 17, by striking “and approved by”; in line 18, by striking all preceding “invest” and inserting “may seek approval from the pooled money investment board as provided in subsection (b) to”; following line 36, by inserting the following:

“(b) On condition of approving the investment policy of any city, county or school district, the pooled money investment board shall review the policy to assure that it addresses liquidity, diversification, safety of principal, yield, maturity and quality and capability of investment management staff. In addition, the policy shall provide procedures for compliance with subsection (c) of K.S.A. 12-1675, and amendments thereto, and a certification from the investment management staff that those procedures have been followed.”;

Also on page 1, in line 40, following the period by inserting “On condition of approving the investment policy, the pooled money investment board shall review the policy to assure that it addresses liquidity, diversification, safety of principal, yield, maturity and quality and

capability of investment management staff. In addition, the policy shall provide procedures for compliance with subsection (c) of K.S.A. 12-1675, and amendments thereto, a certification from the investment management staff that those procedures have been followed and a listing of the banks, savings and loan associations and savings banks from which the city, county or school district requested bids in the preceding year.”; by striking all in lines 41 through 43;

And by relettering subsections accordingly;

And the bill be passed as amended.

**SB 163** be amended on page 2, in line 9, by striking all following “or”; in line 10, by striking all preceding “is” and by inserting “who holds or services an existing extension of credit of the applicant who is the subject of the report”;

On page 4, in line 30, following “(13)” by inserting “(A)”; also in line 30, by striking “a written or” and inserting “an”; in line 37, by striking the period and inserting “;

(B) making a written solicitation for products or services based on a mortgage trigger lead unless the solicitation clearly and conspicuously states on the first page of the solicitation that the solicitor is not affiliated with the lender or broker with which the consumer initially applied and that the solicitation is based on personal information about the consumer that was purchased, directly or indirectly, from a consumer reporting agency without the knowledge or permission of the lender or broker with which the consumer initially applied. Clear and conspicuous shall include legible type in contrast by typography, layout or color with other printing on the first page of the correspondence; and

(C) if applicable, any solicitor under clause (A) or (B) shall be in compliance with the provisions of the Kansas mortgage business act and any other law or regulation.”;

And the bill be passed as amended.

Committee on **Judiciary** recommends **SB 154** be passed.

Also, **SB 87** be amended on page 7, in line 24, by striking “when the release”; by striking all in line 25; in line 26, by striking “person”;

On page 13, in line 41, after “law” by inserting “requiring confidentiality or”; also in line 13, by striking “or requiring confidentiality”;

On page 19, in line 13, by striking “and”; in line 16, by striking the period and inserting “; and

(3) the matter is entirely within one or more of the following categories:

(A) A monetary amount of not more than \$100;

(B) the denial of an application after the applicant has abandoned the application;

(C) the denial, in whole or in part, of an application if the applicant has an opportunity for administrative review in accordance with K.S.A. 77-511, and amendments thereto;

(D) a matter that is resolved on the sole basis of inspections, examinations or tests; or

(E) any matter having only trivial potential impact upon the affected parties.”; and the bill be passed as amended.

Committee on **Transportation** recommends **SB 142** be amended on page 1, in line 15, by striking “through 6” and inserting “, 2, 3 and 5”; in line 31, by striking “and fa-”; in line 32, by striking “talities; and” and inserting a semicolon; in line 33, by striking the period and inserting a semicolon; after line 33, by inserting the following:

“(3) accident rates and accident fatality rates, which account for the amount of crashes;

(4) number of crashes resulting in serious injury or death; and

(5) traffic volumes.”;

On page 9, in line 24, by striking all after “remainder”; in line 25, by striking all before the period and inserting “as prescribed by K.S.A. 74-7336, and amendments thereto”; in line 27, after “enforcement” by inserting “, reimbursement, as soon as moneys are available therefor, of actual and necessary expenses paid from another fund of the department of transportation, or any other state agency to implement the safety corridor act”; by striking all in lines 32 through 43;

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

Committee on **Utilities** recommends **SB 58** be amended by substituting a new bill to be designated as “Substitute for SENATE BILL No. 58,” as follows:



## "Substitute for SENATE BILL No. 58

By Committee on Utilities

"AN ACT concerning utilities; relating to the underground utility damage prevention act; definitions; amending K.S.A. 66-1802, 66-1804, 66-1805 and 66-1806 and repealing the existing sections; also repealing K.S.A. 66-1802, as amended by section 5 of chapter 122 of the 2008 Session Laws of Kansas, 66-1804, as amended by section 6 of chapter 122 of the 2008 Session Laws of Kansas, 66-1805, as amended by section 7 of chapter 122 of the 2008 Session Laws of Kansas, 66-1806, as amended by section 8 of chapter 122 of the 2008 Session Laws of Kansas, section 9 of chapter 122 of the 2008 Session Laws of Kansas and section 10 of chapter 122 of the 2008 Session Laws of Kansas.";

the substitute bill be passed.

Committee on **Ways and Means** recommends **SB 74** be passed.

**COMMITTEE OF THE WHOLE**

On motion of Senator D. Schmidt, the Senate resolved itself into Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator Brownlee in the Chair.

On motion of Senator Brownlee the following report was adopted:

Recommended **SB 46, SB 60, SB 122, SB 145, SB 171, SB 187** be passed.

**SB 148, SB 168, SB 219** be amended by adoption of the committee amendments, and the bills be passed as amended.

The committee report on **SB 28** recommending a **Sub SB 28** be adopted, and the substitute bill be passed.

A motion by Senator Holland to amend **SB 28** failed and the following amendment was rejected: on page 1, after line 14, by inserting the following:

"Section 1. K.S.A. 2008 Supp. 8-1602 is hereby amended to read as follows: 8-1602. (a) The driver of any vehicle involved in an accident resulting in injury to, great bodily harm to or death of any person shall immediately stop such vehicle at the scene of such accident, or as close thereto as possible, but shall then forthwith return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of K.S.A. 8-1604, and amendments thereto. Every such stop shall be made without obstructing traffic more than is necessary.

(b) A person who violates this section which results in:

(1) Injury to any person shall be guilty of a class A person misdemeanor.

(2) Great bodily harm to any person shall be guilty of a severity level 10, person felony.

(3) The death of any person shall be guilty of a severity level 9, person felony. *In addition to any other penalty provided for a violation of this paragraph, the court shall upon a conviction of such a violation:*

*(A) If the violator is under 18 years of age, order the division of vehicles to suspend the driving privileges of such violator until such date as such violator turns 21 years of age. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator until such date as such violator turns 21 years of age whether or not the violator has a driver's license.*

*(B) If the violator is 18 years of age or older, order the division of vehicles to suspend the driving privileges of such violator for three years. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for three years whether or not the violator has a driver's license.*

(c) The director may revoke the license or permit to drive or any nonresident operating privilege of any person so convicted.";

And by renumbering the remaining sections accordingly;

On page 8, in line 21, by striking "is" and inserting "and K.S.A. 2008 Supp. 8-1602 are";  
On page 1, in the title, in line 11, after "analog;" by inserting "leaving the scene of an accident"; a lso in line 11, after "21-4603d" by inserting "and K.S.A. 2008 Supp. 8-1602"; in line 12, by striking "section" and inserting "sections"

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Wednesday, February 18, 2009.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks*.  
PAT SAVILLE, *Secretary of the Senate*.

