

Journal of the Senate

TWENTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, February 22, 2011, 2:30 p.m.

The Senate was called to order President Stephen Morris
The roll was called with thirty-nine senators present.
Senator Donovan was excused.
Invocation by Chaplain Fred S. Hollomon.

Heavenly Father,

You know that there are three branches of our state government: Executive, Legislative and Judicial. I am primarily concerned with the Legislative. I am specifically responsible to the Senate.

I like to think we are all concerned with the state of Kansas.

There are forty Senators plus their staffs.

We may not all agree, but we are all committed to Kansas.

We are members of two political parties, but we are both pledged to Kansas.

Some are from the West, some are from the East, and some are from the middle, but we all serve Kansas.

We are from the Rural and from the Urban, but both of them are in Kansas.

We are young or middle-aged or Seniors, but we all root for K.U., or K-State, or Wichita State, or Washburn, or somewhere else, but these are all in Kansas.

Whether we like it or not, we are in essence a family.

Families quarrel and families forgive. Families complain and families support each other.

We may be different in so many ways, but we MUST be sold on Kansas.

The bottom line is...we must all be in LOVE with Kansas.

And the source of true, binding, productive LOVE is You, O God.

Don't let us forget You! I pray in the Name of Jesus Christ,

AMEN

The pledge of allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 218, AN ACT concerning motor vehicles; relating to vehicle identification number inspection fees; amending K.S.A. 2010 Supp. 8-116a 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:

Agriculture: **HB 2205**.

Federal and State Affairs: **HB 2013, HB 2060**.

Financial Institutions & Insurance: **HB 2074**.

Judiciary: **SB 217; HB 2029, HB 2118**.

Natural Resources: **SB 214, SB 215**.

Public Health and Welfare: **SB 216**.

Transportation: **SB 213; HB 2132, HB 2172, HB 2175, HB 2230**.

Ways and Means: **HB 2140**.

CHANGE OF REFERENCE

The President withdrew **SB 31** from the Committee on Ethics and Elections, and referred the bill to the Committee on Ways and Means.

The President withdrew **SB 130** from the calendar under the heading of General Orders and rereferred the bill to the Committee on Ethics and Elections.

The President withdrew **SB 71, SB 178** from the Committee on Financial Institutions and Insurance and referred the bills to the Committee on Ways and Means.

The President withdrew **SB 102** from the calendar under the heading of General Orders and referred the bill to the Committee on Ways and Means.

The President withdrew **HB 2049** from the Committee on Judiciary, and referred the bill to the Committee on Public Health and Welfare.

The President withdrew **SB 92, SB 132, SB 138** from the Committee on Public Health and Welfare, and referred the bills to the Committee on Ways and Means.

The President withdrew **SB 151** from the Committee on Transportation, and referred the bill to the Committee on Ways and Means.

COMMUNICATIONS FROM STATE OFFICERS

DEPARTMENT OF HEALTH AND ENVIRONMENT

February 18, 2011

In accordance with KSA 49-512(h), Bob Jurgens, Chief, Assessment and Restoration Section, Bureau of Environmental Remediation, submitted the Treece Relocation Assistance Project Monthly Expenditures/Income Report for the January 2011 reporting period.

The President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2003**, **HB 2006**, **HB 2267**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2003, **HB 2006**, **HB 2267** were thereupon introduced and read by title.

CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointment, submitted by the Governor to the Senate for confirmation, was considered.

Senator Emler moved the following appointment be confirmed as recommended by the Standing Senate Committee:

By the Governor:

On the appointment to the:

Department of Health and Environment:

Robert Moser, Secretary, serves at the pleasure of the Governor.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The appointment was confirmed.

FINAL ACTION ON CONSENT CALENDAR

SB 80, **SB 115**; **HB 2033** having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

SB 80, AN ACT concerning alcoholic beverages; relating to microbreweries; amending K.S.A. 2010 Supp. 41-102 and 41-308b 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, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger,

Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

SB 115, AN ACT repealing K.S.A. 75-5002 and 75-5003; relating to the highway advisory commission.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

HB 2033, AN ACT relating to motor vehicles; concerning the registration of fleet motor vehicles; amending K.S.A. 2010 Supp. 8-1,152 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, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

FINAL ACTION BILLS AND CONCURRENT RESOLUTIONS

SB 6, AN ACT repealing K.S.A. 22-2501; relating to search incident to arrest, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Haley.

Absent or Not Voting: Donovan.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **SB 6**; a bill that I introduced that as

originally introduced would have restored clarity to Kansas' search and seizure laws. **SB 6** took evidence of *any* crime back to the time-honored, and constitutionally correct, standard of the *specific* crime for which a warrant to search was issued.

Although our courts have asked for legislative clarity in statute on this matter, (see State vs. Henning 2007 for example). This amended **SB 6** creates only the necessity for prosecution and for defense to always argue whether or not some law enforcement had the legal right or not to search and/or to seize.

This is not better, Mr. President. It is not "Liberty" to allow a search for one thing and prosecute for another. It is not "Justice" to *have* an attorney argue skillfully why you have been illegally searched and seized. Once again, being in the majority, here in this chamber, *clearly* does not put this chamber in the right. This is *not* better.

We should *all* hold constitutional protections dear. You are making another legislative mistake.

One sad day, by your failure to provide clear unambiguous directive, when our state is directed to pay some massive amount to a defendant who should not have been tried, do *not* say "Don't blame me, I did not know," Mr. President. Why? Because I've told you repeatedly. Sadly remember...Senator Haley told you so. – DAVID HALEY

SB 8, AN ACT concerning information technology; relating to information technology projects; amending K.S.A. 2010 Supp. 75-7201 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed, as amended.

SB 23, AN ACT concerning juvenile offenders; relating to jury trials; amending K.S.A. 2010 Supp. 38-2344 and 38-2357 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

SB 24, AN ACT concerning domestic relations; relating to recodification

of certain domestic relations matters; amending K.S.A. 20-164, 20-165, 20-302b, 23-4,118, 60-1606, 60-1613 and 60-1620 and K.S.A. 2010 Supp. 12-5005, 60-1629 and 60-3107 and repealing the existing sections; also repealing K.S.A. 23-101, 23-201, 60-1608, 60-1611, 60-1612 and 60-1616 and K.S.A. 2010 Supp. 60-1610, was considered on final action.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

SB 28, AN ACT concerning interest earnings raised by the Johnson county education research triangle authority sales tax; amending K.S.A. 19-5003 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle.

Nays: Taddiken.

Absent or Not Voting: Donovan.

The bill passed.

SB 36, AN ACT concerning civil procedure; relating to exemption from creditors for certain retirement plans; amending K.S.A. 60-2308 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

SB 41, AN ACT concerning the Kansas private and out-of-state postsecondary educational institution act; relating to fees; amending K.S.A. 2010 Supp. 74-32,181 and repealing the existing section; also repealing K.S.A. 2010 Supp. 74-32,181a, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent

or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

SB 46, AN ACT concerning civil procedure; relating to electronic filing; amending K.S.A. 60-2601 and 60-2601a and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

SB 52, AN ACT concerning children and minors; relating to grandparent's custody of children; amending K.S.A. 2010 Supp. 38-2241 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

SB 55, AN ACT concerning crimes and punishment; relating to harassment by telecommunication device; amending section 184 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed, as amended.

SB 90, AN ACT concerning the behavioral sciences regulatory board; relating to licensure; amending K.S.A. 2010 Supp. 74-7507 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed, as amended.

SB 97, AN ACT concerning courts; relating to court fees and costs; relating to the judicial branch surcharge fund; docket fees for expungement of records; amending Section 254 of chapter 136 of the 2010 Session Laws of Kansas and K.S.A. 2010 Supp. 8-2107, 8-2110, 22-2410, 23-108a, 28-170, 28-172a, 28-177, 28-178, 38-2215, 38-2312, 38-2314, 59-104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 30, Nays 9, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Lynn, Marshall, McGinn, Morris, Owens, Petersen, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Abrams, Bruce, Love, Masterson, Merrick, Olson, Ostmeyer, Pilcher-Cook, Pyle.

Absent or Not Voting: Donovan.

The bill passed, as amended.

SB 108, AN ACT concerning register of deeds; relating to recording of plats; payment of taxes and assessments; amending K.S.A. 2010 Supp. 19-1207, 58-3115 and 58-3707 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed, as amended.

SB 123, AN ACT concerning the department of wildlife and parks; relating

to public use of cabins on state land, was considered on final action.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

SB 134, AN ACT relating to nursing; concerning advanced practice nursing; amending K.S.A. 40-2250, 65-1113, 65-1114, 65-1118, 65-1120, 65-1122, 65-1130, 65-1131, 65-1133, 65-1154, 65-1163, 74-32,131, 74-32,132, 74-32,133, 74-32,134, 74-32,135, 74-32,136, 74-32,137 and 74-32,138 and K.S.A. 2010 Supp. 8-1,125, 39-7,119, 40-2,111, 65-468, 65-1132, 65-1626, 65-2921, 65-4101, 65-5402, 65-6112, 65-6119, 65-6120, 65-6121, 65-6123, 65-6124, 65-6129c, 65-6135, 65-6144, 72-5213, 72-8252 and 74-1106 and repealing the existing sections; also repealing K.S.A. 2010 Supp. 65-1626d, was considered on final action.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed, as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 116**, **SB 177** be passed.

Also, **SB 193** be amended on page 1, in line 21, by striking "(a)(1), (a)(2) or (a)(3)" and inserting "(c)(1), (c)(2) or (c)(3)"; and the bill be passed as amended.

SB 212 be amended on page 1, after line 24, by inserting the following: "(c) In order to express the intent of the legislature upon first enactment of this section, the provisions of this section and amendments enacted herein shall be effective retroactively to the original enactment of this section on and after July 1, 1999."; and the bill be passed as amended.

Committee on **Commerce** recommends **SB 78** be amended on page 2, in line 37, by striking "11" and inserting "12";

On page 3, in line 2, by striking "nine" and inserting "10"; also in line 2, by striking "five" and inserting "six"; in line 7, by striking "nine" and inserting "10"; in line 8, by striking "two" and inserting "one"; in line 15, by striking

"and"; by striking all in line 16; in line 17, by striking all before the period and inserting "one member shall be the secretary of commerce and one member shall be the secretary of revenue";

On page 4, in line 7, after "(h)" by inserting "The secretary of commerce shall serve as chairperson of the board. The secretary of revenue shall serve as treasurer."; also in line 7, by striking all after "elect"; in line 8, by striking "and"; also in line 8, after "other" by inserting "voting member"; in line 9, by striking "and treasurer for terms" and inserting "for a term"; in line 20, by striking "(k)" and inserting "(j)"; and the bill be passed as amended.

Also, **SB 137** be amended on page 11, by striking all in lines 19 through 35; in line 36, by striking "(q)"; and inserting "(p)";

On page 12 in line 2, by striking "(r)" and inserting "(q)"; in line 6, by striking "(r)"; in line 15, by striking "(s)" and inserting "(r)"; in line 32, by striking "(t)" and inserting "(s)"; in line 39, by striking "(u)" and inserting "(t)"; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 136** be passed.

Committee on **Judiciary** recommends **SB 9** be amended on page 13, following line 13, by inserting:

"Sec. 9. K.S.A. 2010 Supp. 60-228a is hereby amended to read as follows: 60-228a. (a) *Citation of section.* This section may be cited as the uniform interstate depositions and discovery act.

(b) *Definitions.* In this section:

(1) "Foreign jurisdiction" means a state other than this state or a foreign country.

(2) "Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.

(3) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or political subdivision, agency or instrumentality or any other legal or commercial entity.

(4) "State" means a state of the United States, the district of Columbia, Puerto Rico, the United States Virgin islands, a federally recognized Indian tribe or any territory or insular possession subject to the jurisdiction of the United States.

(5) "Subpoena" means a document, however denominated, issued under authority of a court of record requiring a person to:

(A) Attend and give testimony at a deposition;

(B) produce and permit inspection and copying of designated books, documents, records, electronically stored information or tangible things in the possession, custody or control of the person; or

(C) permit inspection of premises under the control of the person";

(c) *Issuance of subpoena.* (1) To request issuance of a subpoena under this section, a party must submit a foreign subpoena to a clerk of court in the county in which discovery is sought to be conducted in this state *and pay the docket fee as required by K.S.A. 60-2001, and amendments thereto.* A request for the issuance of a subpoena in this state under this ~~section~~ act does not

constitute an appearance in the courts of this state.

(2) When a party submits a foreign subpoena to a clerk of court in this state, the clerk, in accordance with that court's procedure, must:

(A) Promptly issue a subpoena for service on the person to which the foreign subpoena is directed; and

(B) *assign the subpoena a case file number and enter it on the docket as a civil action pursuant to K.S.A. 60-2601, and amendments thereto.*

(3) A subpoena under subsection (c)(2) must:

(A) Incorporate the terms used in the foreign subpoena; and

(B) contain or be accompanied by the names, addresses and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

(d) *Service of subpoena.* A subpoena issued by a clerk of court under subsection (c) must be served in compliance with K.S.A. 60-303, and amendments thereto.

(e) *Deposition, production and inspection.* K.S.A. 60-245 ~~and 60-245a~~, and amendments thereto, ~~apply~~ *applies* to subpoenas issued under subsection (c).

(f) *Application to court.* An application to the court for a protective order or to enforce, quash or modify a subpoena issued by a clerk of court under subsection (c) must comply with the statutes of this state and be submitted to the court in the county in which discovery is to be conducted.

(g) *Uniformity of application and construction.* In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(h) *Application to pending action.* This section applies to requests for discovery in cases pending on the effective date of this section.";

And by renumbering sections accordingly;

On page 23, in line 12, after "60-226," by inserting "60-228a,";

On page 1, in the title, in line 3, after "60-226," by inserting "60-228a,"; and the bill be passed as amended.

Also, **SB 135** be amended on page 1, by striking all in lines 27 through 30; in line 31, by striking "Laws of Kansas, and amendments thereto, vehicular homicide;"; and the bill be passed as amended.

SB 160 be amended on page 6, in line 1, after "K.S.A." by inserting "23-495 or"; and the bill be passed as amended.

Committee on **Natural Resources** recommends **SB 124** be amended on page 2, in line 43, after "incorporation." by inserting "Such articles of incorporation shall provide the board of directors of the lower smoky hill access district so formed, shall have an odd number of directors and shall include a provision that no less than one representative of the lower smoky hill special irrigation district serve as a member of the lower smoky hill access district board, if such special irrigation district is formed under the provisions of this act.";

On page 4, in line 16, by striking "issue" and inserting "sue";

On page 7, in line 35, by striking "to serve as a representative of"; by

striking all in line 36; in line 37, by striking "water supply access district"; and inserting ", as described in the articles of incorporation of the lower smoky hill water supply access district, to serve on the governing board of the lower smoky hill river water supply access district"; in line 38, after "the" by inserting "lower smoky hill water supply access"; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

On motion of Senator Emler, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Owens in the chair.

On motion of Senator Owens the following report was adopted:

Recommended **SB 85, SB 103, SB 125, SB 128** be passed.

SB 67, SB 100, SB 119, SB 120, SB 126, SB 150, SB 170, SB 186 be amended by the adoption of the committee amendments, and the bills be passed as amended.

The committee report on **SB 127** recommending a **Sub SB 127** be adopted, and the substitute bill be passed.

Sub SB 33 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Petersen, on page 2, following line 1 by inserting:

"Sec. 2. The Kansas state high school activities association and its member high schools, and administrators, principals, coaches, teachers and other affiliated with such association and member high schools, shall not adopt any rules and regulations or interpret any existing rule and regulation in any manner which would prohibit a student athlete from training with any Kansas state high school league-sponsored sport or competition while the student athlete is participating in nonschool swimming athletic training or diving athletic training, or both, during the high school sport season and throughout the year if:

(a) The nonschool swimming athletic training or diving athletic training, or both, is under the jurisdiction of and sanctioned by the national governing body of the sport, U.S.A. swimming, inc., or U.S.A. diving, inc.; and

(b) the student athlete meets the reasonable and ordinary school-established requirements for participation in the student athlete's high school swimming program or diving program, or both.";

Also on page 2, in line 2, by striking "2." and inserting "3."

On page 1, in the title, in line 1, by striking "school districts; enacting the school sports head"; in line 2, by striking all before the period and inserting "high school athletes" and **Sub SB 33** be passed as amended.

SB 93 be amended by adoption of the committee amendments, be further amended by motion of Senator Brungardt, on page 1, in line 32, by striking all after "(e)"; by striking all in line 33;

On page 2, by striking all in lines 1 through 4 and inserting ""Enforcement action" means any law enforcement act, as described in K.S.A. 22-4609, and amendments thereto, during a nonconsensual contact with an individual or

individuals.";

On page 3, on line 38, by striking "Kansas human rights commission" and inserting "attorney general";

On page 1, in the title, in line 1, by striking "law enforcement" and inserting "racial or other biased-based policing"

SB 93, was further amended by Senator Faust-Goudeau, on page 5, in line 1, after "traffic" by inserting "or pedestrian"; in line 25, after "traffic" by inserting "or pedestrian";

On page 6, in line 5, after "vehicle" by inserting "or pedestrian"; in line 19, before "county" by inserting "if a vehicle stop, the"; in line 28, before "number" by inserting "if a vehicle stop, the" and **SB 93** be passed as further amended.

A motion by Senator Haley to amend **SB 93** failed and the following amendment was rejected: on page 1, in line 25, by striking "unreasonable"

SB 43 be passed over and retain a place on the calendar.

On motion of Senator Emler, the Senate adjourned until 10:00 a.m.,
Wednesday, February 23, 2011.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

