

Journal of the Senate

TENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, January 26, 2009—2:30 p.m.

The Senate was called to order by Vice President John Vratil.
The roll was called with thirty-nine senators present.
Senator Wysong was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Most every time someone discovers
I'm Chaplain of the Senate;
They have nothing good to say
About anybody in it.

So every year I have a chance
To speak at the Day of Prayer,
I remind them "bad-mouthing never helps,
So pray for all of them there."

When it comes to criticism,
Years ago I found
Most folks assume that others
Have the easiest jobs around.

There's an old saying, Lord,
Which may express your views:
"Don't judge others until you've walked
Thirty days in their shoes."

Thirty days in a Senator's shoes
Should help the critics realize
They don't have many reasons
To sit around and criticize.

I pray in Jesus' Name,

AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were introduced and read by title:

SB 90, An act relating to the insurance department; concerning the electronic filing of certain documents; providing for rules and regulations, by Committee on Ways and Means.

SB 91, An act concerning planning and zoning; dealing with vesting of development rights; amending K.S.A. 12-764 and repealing the existing section, by Committee on Local Government.

SB 92, An act concerning the Kansas code for care of children; relating to jurisdiction; amending K.S.A. 2008 Supp. 38-2203 and repealing the existing section, by Committee on Ways and Means.

SB 93, An act concerning the joint committee on special claims against the state; relating to membership thereof; amending K.S.A. 46-912 and repealing the existing section, by Committee on Ways and Means.

SB 94, An act concerning the Kansas code for care of children; relating to placement of children into custody; amending K.S.A. 2008 Supp. 38-2232, 38-2242, 38-2243 and 38-2255 and repealing the existing sections, by Committee on Ways and Means.

SB 96, An act concerning retirement and pensions; relating to the Kansas public employees retirement act of 2009; providing permanent annual cost-of-living adjustment for certain retirants; member contributions; amending K.S.A. 2008 Supp. 74-49,210 and repealing the existing section, by Joint Committee on Pensions, Investments and Benefits.

SB 97, An act concerning the liquor enforcement tax; relating to violations by retailers; prescribing penalties therefor, by Committee on Assessment and Taxation.

SB 98, An act concerning income taxation; relating to refund claims and adjustments of income; period of limitations; amending K.S.A. 2008 Supp. 79-3230 and repealing the existing section, by Committee on Assessment and Taxation.

SB 99, An act concerning sales taxation; relating to countywide retailers' sales tax in Lyon county; amending K.S.A. 2008 Supp. 12-187 and 12-189 and repealing the existing sections, by Committee on Assessment and Taxation.

SB 100, An act concerning sales taxation; relating to imposition of tax; exemptions; hunting and fishing; amending K.S.A. 2008 Supp. 79-3603 and 79-3606 and repealing the existing sections, by Committee on Assessment and Taxation.

SB 101, An act concerning tanning facilities; regulating minors' use of tanning device, by Committee on Public Health and Welfare.

SB 102, An act concerning emergency medical services; relating to use of automated external defibrillator; amending K.S.A. 2008 Supp. 65-6149a and repealing the existing section, by Committee on Public Health and Welfare.

SB 103, An act concerning elections; relating to certain primary elections; amending K.S.A. 2008 Supp. 25-2021, 25-2108a and 71-1415 and repealing the existing sections, by Committee on Ethics and Elections.

SB 104, An act concerning insurance; providing reimbursement for certain services; amending K.S.A. 2008 Supp. 40-2,103 and 40-19c09 and repealing the existing sections, by Committee on Financial Institutions and Insurance.

SB 105, An act enacting the public adjusters licensing act, by Financial Institutions and Insurance.

SB 106, An act concerning cigarette lighters; amending K.S.A. 21-3105 and repealing the existing section, by Committee on Federal and State Affairs.

SB 107, An act concerning bingo games; relating to operation thereof and prizes awarded; amending K.S.A. 2008 Supp. 79-4701, 79-4706 and 79-4717 and repealing the existing sections, by Committee on Federal and State Affairs.

SENATE CONCURRENT RESOLUTION No. 1602—

By Special Committee on Assessment and Taxation

A PROPOSITION to amend section 1 of article 11 of the constitution of the state of Kansas, relating to the classification and taxation of watercraft.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 1 of article 11 of the constitution of the state of Kansas is hereby amended to read as follows:

“§ 1. **System of taxation; classification; exemption.** (a) The provisions of this subsection shall govern the assessment and taxation of property on and after January 1, ~~1993~~ 2011, and each year thereafter. Except as otherwise hereinafter specifically

provided, the legislature shall provide for a uniform and equal basis of valuation and rate of taxation of all property subject to taxation. The legislature may provide for the classification and the taxation uniformly as to class of recreational vehicles *and watercraft*, as defined by the legislature, or may exempt such class from property taxation and impose taxes upon another basis in lieu thereof. The provisions of this subsection shall not be applicable to the taxation of motor vehicles, except as otherwise hereinafter specifically provided, mineral products, money, mortgages, notes and other evidence of debt and grain. Property shall be classified into the following classes for the purpose of assessment and assessed at the percentage of value prescribed therefor:

Class 1 shall consist of real property. Real property shall be further classified into seven subclasses. Such property shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at the following percentages of value:

- (1) Real property used for residential purposes including multi-family residential real property and real property necessary to accommodate a residential community of mobile or manufactured homes including the real property upon which such homes are located 11½%
- (2) Land devoted to agricultural use which shall be valued upon the basis of its agricultural income or agricultural productivity pursuant to section 12 of article 11 of the constitution 30%
- (3) Vacant lots 12%
- (4) Real property which is owned and operated by a not-for-profit organization not subject to federal income taxation pursuant to section 501 of the federal internal revenue code, and which is included in this subclass by law 12%
- (5) Public utility real property, except railroad real property which shall be assessed at the average rate that all other commercial and industrial property is assessed 33%
- (6) Real property used for commercial and industrial purposes and buildings and other improvements located upon land devoted to agricultural use ... 25%
- (7) All other urban and rural real property not otherwise specifically subclassified 30%

Class 2 shall consist of tangible personal property. Such tangible personal property shall be further classified into six subclasses, shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at the following percentages of value:

- (1) Mobile homes used for residential purposes 11½%
- (2) Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25% 30%
- (3) Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed 33%
- (4) All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 1985 30%
- (5) Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic life is less than seven years, shall be valued at its retail cost when new less straight-line depreciation over its economic life, except that, the value so obtained for such property, notwithstanding its economic life and as long as such property is being used, shall not be less than 20% of the retail cost when new of such property 25%
- (6) All other tangible personal property not otherwise specifically classified .. 30%

(b) All property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, farm machinery and equipment, mer-

chants' and manufacturers' inventories, other than public utility inventories included in subclass (3) of class 2, livestock, and all household goods and personal effects not used for the production of income, shall be exempted from property taxation."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

"Explanatory statement. This amendment would allow the legislature to classify and tax watercraft upon a basis different from other property.

"A vote for this proposition would permit the legislature to provide for separate classification and taxation of watercraft and to exempt such property from property taxation and impose taxes in lieu thereof.

"A vote against this proposition would continue the taxation of watercraft in the same manner as all other property."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives, shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election to be held in August 2010.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: **SB 77, SB 78, SB 89.**

Education: **SB 73, SB 84.**

Ethics and Elections: **SB 71, SB 79, SB 80.**

Federal and State Affairs: **SB 75, SB 76.**

Financial Institutions & Insurance: **SB 72.**

Judiciary: **SB 66, SB 67, SB 68, SB 69, SB 70, SB 85, SB 86, SB 87, SB 88.**

Public Health and Welfare: **SB 81, SB 82, SB 83.**

Ways and Means: **SB 74.**

CHANGE OF REFERENCE

The Vice President withdrew **SB 89** from the Committee on **Commerce**, and referred the bill to the Committee on **Financial Institutions and Insurance**.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS DEPARTMENT OF ADMINISTRATION

January 26, 2009

Kent E. Olson, Director, Division of Accounts and Reports, submitted a CD containing the 55th Annual Financial Report of the State of Kansas for the fiscal year ended June 30, 2008.

The Vice 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.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Morris, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Ostmeier, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, D. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, and Wysong introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1806—

A RESOLUTION honoring and thanking Shirley Higgins.

WHEREAS, Shirley Higgins has served the Kansas Legislature in various positions for well more than 20 years; and

WHEREAS, Shirley Higgins was born in Muskogee, Oklahoma. She attended East Indianola Elementary School in Topeka, Kansas and graduated from Seaman High School before graduating from Washburn University; and

WHEREAS, In 1982, Shirley Higgins' service to Kansas began when she was hired to work as a Senate Commercial and Financial Institutions committee secretary, a position she held for seven years before she worked as a Senate Local Government committee secretary for eight years; and

WHEREAS, Shirley Higgins continued to support the Senate in her work as the Senate Assessment and Taxation committee secretary, a position she held for eight years before working as a Senate Education committee assistant for four years as well working as permanent part-time secretary for the Joint Committee on Special Claims Against the State; and

WHEREAS, Shirley Higgins has been a tremendous asset to the Kansas Legislature throughout her years of service which have been marked by her attention to detail and hard work; and

WHEREAS, After her many years of working for the Kansas Legislature in various capacities, Shirley Higgins plans to retire to dedicate more time to interior decorating and supporting the economy through her love of shopping; Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor Shirley Higgins for her professional accomplishments, thank her for her contribution of many dedicated years of public service given to the State of Kansas and wish her continued success in all her future endeavors.

On emergency motion of Senator Schodorf **SR 1806** was adopted unanimously.

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

SENATE RESOLUTION No. 1807—

A RESOLUTION recognizing and thanking Jesse Solis and the city of Emporia, Kansas for the dedication of an American Braille tactile flag.

WHEREAS, Jesse Solis, who has been instrumental in raising awareness for this braille flag, on behalf of Emporia, Kansas, is dedicating an American Braille tactile flag with the pledge of allegiance transcribed in braille to the Senate President Steve Morris to be displayed in the capitol building; and

WHEREAS, Armistice Day was expanded to Veterans Day after an Emporia resident Al King led a campaign to honor all veterans on November 11, 1953, making Emporia the founding city for Veterans Day; and

WHEREAS, Randolph Cabral, founder of the Kansas Braille Transcription Institute in Wichita, designed the braille flag for his father, Jesus Sanchez "Chuy" Cabral, a veteran of World War II, after he lost his vision; and

WHEREAS, Congressman Tiahrt sponsored a bill that placed an American Braille tactile flag in Arlington National Cemetery honoring blind members of the Armed Forces, veterans, and other Americans; and

WHEREAS, Currently, the United States has over 1,000,000 blind and low-vision veterans and the Department of Defense estimates that 16 percent of those injured in Operation Iraqi Freedom and Operation Enduring Freedom suffer from severe vision loss; and

WHEREAS, This braille flag enables all visually impaired Kansans to appreciate Old Glory and to read the pledge of allegiance; Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize and thank Jesse Solis and the city of Emporia for dedicating an American Braille tactile flag for display in the capitol building so that all visually impaired Kansans can fully appreciate Old Glory and can be reminded of all that she means to us.

On emergency motion of Senator Barnett **SR 1807** was adopted unanimously.

Senator Barnett introduced Jesse P. Solis and Randolph Cabral, who presented a braille American flag to President Morris for display in the Capitol.

Also introduced were Dr. Marshall Havenhill, Matt Zimmerman, Bob Agler, Jeanine McKenna, John Clark, Gary Eichorn, James Reddick, Penny Oliver and Patrick Hayes.

REPORT ON ENGROSSED BILLS

SB 14, SB 19 reported correctly engrossed January 23, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **SB 34, SB 44** be passed.

Also, **SB 45** be amended on page 2, in line 41, by striking “all”; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 23** be amended by substituting a new bill to be designated as “Substitute for SENATE BILL No. 23,” as follows:

“Substitute for SENATE BILL No. 23

By Committee on Ways and Means

AN ACT making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010 and June 30, 2011, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2008 Supp. 55-193, 79-2978, 79-2979, 79-3425i, 79-34,156, 79-4801 and 82a-953a and repealing the existing sections.”; and the substitute bill be passed.

Also, **SB 30** be amended on page 1, in line 13, by striking “All” and inserting “Except as otherwise provided in this section, all”; in line 23, by striking all after the period; by striking all in lines 24 and 25; in line 32, after “to” by inserting “a local public library for fair market value. The director of legislative administrative services shall establish and carry out a procedure whereby such libraries are notified of the authorization to purchase such computer equipment pursuant to this section. If any remaining computer equipment is not sold to such libraries, then such computer equipment shall be offered and may be sold to”; in line 35, by striking “two additional purchases” and inserting “one additional purchase”; in line 37, by striking “purchases” and inserting “purchase”; after line 41, by inserting the following: “(d) As used in this section:

(1) “Member of the legislature” means a member of the legislature who is a member of the house of representatives or the senate.

(2) “Local public library” means any library established pursuant to article 12 of chapter 12 of the Kansas Statutes Annotated, and amendments thereto, and any library which is operating pursuant to an interlocal agreement between a city, county or township and a school district pursuant to K.S.A. 12-2901 et seq., and amendments thereto, or K.S.A. 72-8230, and amendments thereto.

(e) Any property not disposed of in accordance with subsection (b), may be disposed of in the manner prescribed in the state surplus property act.”;

Also on page 1, in line 43, by striking “the Kansas highway patrol” and inserting “a state law enforcement agency”;

On page 2, in line 2, by striking all after “(b)”; by striking all in line 3; in line 4, by striking all before “subject” and inserting “The agency head of any state law enforcement agency who employs persons who are authorized to carry firearms when discharging the duties of such person’s employment is hereby authorized to sell the personal sidearm of such person to such person who is authorized to carry such firearm”; in line 5, by striking all after “A”; by striking all in lines 6 through 8 and inserting “retiring or resigning state law enforcement officer, as defined in K.S.A 74-5602, and amendments thereto, who resigns from such state agency to accept employment with a local, state or federal law enforcement agency, is hereby authorized to purchase, upon such retirement or resignation, such employee’s”; in line 13, by striking “retiring trooper”; by striking all in line 14; in line 15, by striking all before “determines” and inserting “resigning or retiring employee unless the agency head of such state agency from which such person is resigning or retiring”; in line 16, by striking all after “such” and inserting “employee are”; in line 19, by striking “troopers and officers” and inserting “or retiring state employee”; in line 21, by striking “highway patrol general”; by striking all in line 22 and inserting “appropriate special revenue fund of such state agency.”; and the bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, January 27, 2009.

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

