

Journal of the Senate

THIRTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, March 8, 2004—2:30 p.m.

The Senate was called to order by President Dave Kerr.
The roll was called with forty senators present.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

As a legislator most of the bills on which I vote have little opposition, but every now and then there are bills dealing with controversial issues. Even when I'm sure of how I'm going to vote doesn't mean that it's easy to vote that way. Here are some scenarios which can engender a hostile response:

When the reasons for my vote
I feel are very strong,
But most of my constituents feel
I'm very, very wrong.

When the vote is very close
Any my vote will be the one
Which is not the party line
But will affect the outcome.

When feelings are running strong
Among constituents,
But if they knew what I know
They'd be otherwise convinced.

When I'm convinced on how to vote
But I'm sure that in the end
Since it's not the way I usually vote,
It could cost me some friends.

When the issue's controversial
And my conscience is my guide;
There's a good chance I'll commit
Political suicide.

There are more scenarios
Which put me on the spot,
And cause me to agonize
Over what is right and what is not.

I'd really like to know, O God,
Which way that I should choose.
Better still—how You would vote
If you were in my shoes!!

I pray in the Name of the Christ,

AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

SB 555, An act concerning gaming; relating to the use of moneys derived therefrom, by Committee on Ways and Means.

SB 556, An act concerning certain postsecondary educational institutions; relating to out-district tuition; amending K.S.A. 2003 Supp. 13-13a25, 13-13a26, 13-13a27, 13-13a29, 13-13a31, 13-13a32, 13-13a33, 13-13a34, 19-101a, 71-301a, 71-304, 71-305, 71-306, 71-308, 71-401, 71-402, 71-403, 71-610 and 71-1705 and repealing the existing sections, by Committee on Ways and Means.

SB 557, An act concerning the attorney general; authorizing transfers between certain funds, by Committee on Ways and Means.

SB 558, An act concerning the Kansas business health policy partnership; relating to duties, expenditures and creation of a fund; amending K.S.A. 2003 Supp. 40-4702, 40-4704 and 40-4706 and repealing the existing sections, by Committee on Ways and Means.

SB 559, An act concerning water; relating to water rights; amending K.S.A. 2-1919 and 82a-707 and K.S.A. 2003 Supp. 2-1915 and repealing the existing sections, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1620—

By Senators Umbarger, Salmans, Brownlee, Bunten, Emler, Jackson, Jordan, O'Connor, Schmidt, Schodorf, Taddiken and Tyson

A PROPOSITION to amend section 1 of article 11 of the constitution of the state of Kansas.

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, 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 shall provide by enactment of law for limitations on increases of the appraised valuation of real property used for residential purposes.* The legislature may provide for the classification and the taxation uniformly as to class of recreational vehicles, 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, merchants' 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 require the legislature to provide limitations upon the increase of the appraised valuation of real property used for residential purposes.

"A vote for this proposition would require the legislature to provide limitations on appraised valuation increases for real property used for residential purposes.

"A vote against this proposition would maintain the current system of property taxation."

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 on November 2, 2004.

MESSAGE FROM THE HOUSE

Announcing adoption of **HCR 5033**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HCR 5033 was thereupon introduced and read by title.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **Substitute for HB 2435** be passed.

Committee on **Education** recommends **Substitute for HB 2592** be amended on page 1, in line 38, by striking "statute book" and inserting "Kansas register"; and the substitute bill be passed as amended.

Committee on **Judiciary** recommends **HB 2764** be passed.

Also, **SB 432** be amended on page 7, in line 8, after "to" where it appears the first time by inserting "the terminated officer and"; and the bill be passed as amended.

HB 2293, as amended by House Committee, be amended on page 1, in line 16, after "charge" by inserting "the following fees"; in line 17, by striking "the following fees"; in line 18, by striking "or" where it appears the third time; in line 19, by striking "tax warrant,"; in line 20, by striking "\$10.00" and inserting "\$5.00"; by striking all in line 21; by striking all in line 28; in line 40, by striking "The"; by striking all in lines 41 through 43;

On page 2, by striking all in lines 1 through 3; in line 4, by striking all before "If"; in line 5, after "writ" by inserting ", process, order or notice"; also in line 5, by striking "mileage"

and inserting "fee"; in line 6, by striking "mileage" and inserting "fee"; in line 8, by striking "distance actually and nec-"; in line 9, by striking "essarily traveled in making"; in line 10, by striking all after "the" where it appears the first time; in line 11, by striking all before "service" where it appears the second time; in line 14, by striking "mileage" and inserting "a fee"; in line 18, before "Except" by inserting "Where service is not affected or timely return made pursuant to K.S.A. 60-312 or 61-3005, and amendments thereto, no fee shall be taxed or allowed on subsequent alias, writ, process, order or notice as required to effect service and the return of service."; in line 24, by striking "service of process fee" and inserting "fees for service of process."; in line 26, after "60" by inserting "or chapter 61"; also in line 26, before the period by inserting ", and amendments thereto, except that no fee shall be charged for an action filed under K.S.A. 60-3101 et seq., and under K.S.A. 60-31a01 et seq., and amendments thereto";

On page 3, in line 8, by striking "2000" and inserting "2003"; in line 18, by striking "2000" and inserting "2003";

On page 4, by striking all in lines 42 and 43;

On page 5, by striking all in lines 1 through 43;

On page 6, by striking all in lines 1 through 27; before line 28, by inserting the following:

"Sec. 3. K.S.A. 2003 Supp. 60-2001 is hereby amended to read as follows: 60-2001. (a) *Docket fee.* Except as otherwise provided by law, no case shall be filed or docketed in the district court, whether original or appealed, without payment of a docket fee in the amount of \$106 during the period commencing July 1, 2003, and ending June 30, 2005, and \$105 on or after July 1, 2005, to the clerk of the district court.

(b) *Poverty affidavit in lieu of docket fee.* (1) *Effect.* In any case where a plaintiff by reason of poverty is unable to pay a docket fee, and an affidavit so stating is filed, no fee will be required. An inmate in the custody of the secretary of corrections may file a poverty affidavit only if the inmate attaches a statement disclosing the average account balance, or the total deposits, whichever is less, in the inmate's trust fund for each month in (A) the six-month period preceding the filing of the action; or (B) the current period of incarceration, whichever is shorter. Such statement shall be certified by the secretary. On receipt of the affidavit and attached statement, the court shall determine the initial fee to be assessed for filing the action and in no event shall the court require an inmate to pay less than \$3. The secretary of corrections is hereby authorized to disburse money from the inmate's account to pay the costs as determined by the court. If the inmate has a zero balance in such inmate's account, the secretary shall debit such account in the amount of \$3 per filing fee as established by the court until money is credited to the account to pay such docket fee. Any initial filing fees assessed pursuant to this subsection shall not prevent the court, pursuant to subsection (d), from taxing that individual for the remainder of the amount required under subsection (a) or this subsection.

(2) *Form of affidavit.* The affidavit provided for in this subsection shall be in the following form and attached to the petition:

State of Kansas, _____ County.

In the district court of the county: I do solemnly swear that the claim set forth in the petition herein is just, and I do further swear that, by reason of my poverty, I am unable to pay a docket fee.

(c) *Disposition of docket fee. The docket fee fees.* The docket fees and the fees for service of process shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. For every person to be served by the sheriff, the persons requesting service of process shall provide proper payment to the clerk and the clerk of the district court shall forward the service of process fee to the sheriff in accordance with K.S.A. 28-110, and amendments thereto. The service of process fee, if paid by check or money order, shall be made payable to the sheriff. Such service of process fee shall be submitted by the sheriff at least monthly to the county treasurer for deposit in the county treasury and credited to the county general fund. The docket fee shall be disbursed in accordance with K.S.A. 20-362 and amendments thereto.

(d) *Additional court costs.* Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall

include, but not be limited to, witness fees, appraiser fees, fees for service of process ~~outside the state~~, fees for depositions, alternative dispute resolution fees, transcripts and publication, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties as directed by the court. ~~No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.~~;

Also on page 6, in line 28, by striking "2002" and inserting "2003"; in line 33, by striking "or" and inserting a comma; in line 34, after "officer" by inserting "or private process server";

On page 7, by striking all in lines 7 through 9; in line 10, by striking "(9)" and inserting "(8)";

Also on page 7, in line 12, by striking "2002" and inserting "2003";

Also on page 1, in the title, in line 11, by striking "2002" and inserting "2003"; and the bill be passed as amended.

Committee on **Natural Resources** recommends **HB 2731** be amended on page 2, preceding line 37, by inserting new material to read as follows:

"(e) The secretary shall report annually, beginning on February 1, 2006, to the house committee on environment and the senate committee on natural resources on the state of contributions to the feed the hungry fund and the disbursements to Kansas Farmers and Hunters Feeding the Hungry."; and the bill be passed as amended.

Committee on Ways and Means recommends **SB 527**; **HB 2725** be passed.

COMMITTEE OF THE WHOLE

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

On motion of Senator Teichman the following report was adopted:

Recommended **SB 400** be passed.

SB 293 be amended by adoption of the of the committee amendments.

Senator Journey moved to amend the bill on page 1, line 36, by inserting "by the action of an explosive".

The motion failed and the amendment was rejected.

The Committee recommended **SB 293** be passed as amended.

SB 533 be amended by adoption of the committee amendments, be further amended by motion of Senator Brungardt as amended by Senate Committee, on page 3, in line 41, by striking "74-8904" and inserting "74-9804 are";

On page 1, in the title, in line 12, by striking "74-8904" and inserting "74-9804", and **SB 533** be passed as further amended.

SB 540 be amended by adoption of the committee amendments, be further amended by motion of Senator Oleen as amended by Senate Committee, on page 1, in line 14, by striking "January" and inserting "July"; also in line 14, by striking ", no pos-"; in line 15, by striking all preceding the colon; by striking all in lines 22 through 30 and inserting:

"(1) No postsecondary educational institution shall print or encode a person's social security number on or into the person's identification card.

(2) Any distinguishing identifier assigned to the person's identification card shall be a combination of numbers or letters or both, which is unique to such person.

(3) A person's distinguishing identifier shall not, in any way, be based on or depend on the person's social security number.", and **SB 540** be passed as further amended.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Tuesday, March 9, 2004.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

