

Journal of the Senate

THIRTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, January 28, 2010—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 Masterson was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

As we tackle this giant of a problem, please convince the chronic critics of the legislators . . .

1. That just because bills pass they don't like, and bills die they do like, that they don't solve anything by calling the legislators names.
2. That complaining about the money they are paid because most of them already have jobs, indicates a lack of understanding that somebody has to take care of their jobs while they are gone.
3. That most of them have families for whom they are still responsible while they are serving as legislators for about 70,000 people.
4. That instead of blaming all of them for things they don't like, to send a note of thanks when their legislator votes for something they wanted.
5. That many of them get the feeling that the old saying is still true: "When I'm right, no one remembers; when I'm wrong, no one forgets."
6. That the chronic critics will accomplish a lot more by praying for their legislators than by constantly criticizing them.

I ask this in the Name of Jesus Christ,

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 477, An act concerning property taxation; relating to exemptions; newly constructed building or other structure on residential property; procedures; duties of county or district appraiser, by Committee on Assessment and Taxation.

SB 478, An act concerning the Kansas cigarette and tobacco products act; violations of act; amending K.S.A. 79-3304, 79-3309, 79-3371 and 79-3378 and K.S.A. 2009 Supp. 79-3301, 79-3302, 79-3303, 79-3310, 79-3311, 79-3312, 79-3316 and 79-3321 and repealing the existing sections; also repealing K.S.A. 2009 Supp. 79-3310c, by Committee on Assessment and Taxation.

SB 479, An act concerning unclaimed property; regarding tax information; disclosure of information to the state treasurer for the purpose of locating unclaimed property owners; amending K.S.A. 2009 Supp. 79-3234 and repealing the existing section, by Committee on Ways and Means.

SB 480. An act regulating traffic; concerning license plates; amending K.S.A. 2009 Supp. 8-133 and 8-2118 and repealing the existing sections, by Committee on Ways and Means.

SB 481. An act concerning district magistrate judges; relating to the elimination or reassignment of positions upon vacancy; amending K.S.A. 5-417, 16a-6-116, 17-1775, 17-7301, 17-7307, 17-76,121, 17-76,129, 20-301, 20-327, 20-329, 20-331, 20-333, 20-336, 20-348, 20-354, 20-2908, 22-2602, 22-2603, 22-2604, 22-2605, 22-2606, 22-2607, 22-2608, 22-2609, 22-2610, 22-2611, 22-2612, 22-2613, 22-2614, 22-2615, 22-2616, 22-2617, 22-2902, 22-3428, 22-3428a, 38-1116, 43-162, 43-163, 43-164, 47-421, 50-110, 50-638, 55-1617, 56-1a502, 56-1a510, 59-2126, 59-2138, 59-2203, 59-2207, 59-2403, 60-242, 60-601, 60-602, 60-603, 60-604, 60-605, 60-606, 60-607, 60-608, 60-609, 60-611, 60-612, 60-613, 60-614, 60-4103, 61-2708, 61-3402, 61-3403, 61-3404, 61-3405, 61-3406, 61-3407, 61-3409, 66-118e, 75-6907, 77-609 and 77-624 and K.S.A. 2009 Supp. 8-259, 8-1020, 26-501, 38-2204, 38-2305, 40-218, 43-107, 43-158, 59-2136, 59-2971, 59-29b71 and 74-711 and repealing the existing sections; also repealing K.S.A. 20-301b, 20-338, 20-3107, 20-3108, 20-3109, 20-3110 and 72-6776 and K.S.A. 2009 Supp. 43-112a and 43-112b, by Committee on Ways and Means.

SB 482. An act concerning development and redevelopment of areas in the state; defining terms; financing projects; assessments; amending K.S.A. 2009 Supp. 12-6a27, 12-6a28, 12-6a29, 12-6a30, 12-6a31, 12-6a36, 12-1770a, 12-1774 and 12-17,142 and repealing the existing sections, by Committee on Commerce.

SB 483. An act relating to motor vehicles; concerning the use of safety belts; amending K.S.A. 2009 Supp. 8-2503 and 8-2504 and repealing the existing sections, by Committee on Transportation.

SB 484. An act relating to drivers' licenses; concerning restricted licenses and instructional permits; amending K.S.A. 2009 Supp. 8-296, 8-2,100 and 8-2,101 and repealing the existing sections, by Committee on Transportation.

SB 485. An act concerning postsecondary education; relating to private and out-of-state postsecondary educational institutions; amending K.S.A. 2009 Supp. 74-32,162, 74-32,163, 74-32,167, 74-32,168, 74-32,169, 74-32,170, 74-32,178 and 74-32,181 and repealing the existing sections, by Legislative Educational Planning Committee.

SB 486. An act concerning the employment security law; pertaining to certain payments required; amending K.S.A. 2009 Supp. 44-717 and repealing the existing section, by Committee on Business and Labor.

SENATE CONCURRENT RESOLUTION No. 1625—

By Joint Committee on Kansas Security

A RESOLUTION urging the United States Congress to fund the construction of the National Bio and Agro-defense Facility (NBAF) and the Department of Homeland Security to advance the sale of Plum Island Animal Disease Center and fully fund.

WHEREAS, When it comes to the critically urgent work of protecting America's food supply, the NBAF offers the only long-term solution to secure the nation's food supply and agricultural economy through integrated biosafety research, testing, and evaluation of agricultural and public health threats; and

WHEREAS, Since 2004, the Department of Homeland Security (DHS) has reported on the defined capability gap in integrated biosafety research, development, testing, and evaluation of agricultural and public health threats posed by foreign animal, emerging, and zoonotic diseases in large livestock; and

WHEREAS, The NBAF will eliminate the capability gap outlined in 2004 by providing a domestic, modern, integrated high-containment facility containing BioSafety Level (BSL) 2/3/3Ag/4 laboratories for up to 350 scientists and support staff to safely and effectively address the accidental or intentional introduction of animal diseases into the United States; and

WHEREAS, In 2006, DHS implemented an exhaustive three-year selection process that chose Kansas as the best home on the merits for a new research facility to protect the American food supply and agriculture economy. Throughout the review, Kansas was noted for its internationally recognized animal health research expertise, state-of-the-art research

and industry infrastructure, and deep agricultural heritage — all of which will significantly accelerate research efforts; and

WHEREAS, In January 2009, the Department of Homeland Security sited the National Bio and Agro-defense Facility in Manhattan, Kansas on the campus of Kansas State University based upon the unanimous recommendation of a panel of biocontainment experts; and

WHEREAS, In its Record of Decision published in the *Federal Register* on January 16, 2009, the Department of Homeland Security noted that, “based on the numerous strengths” that were evident when evaluating the Manhattan Campus Site against the evaluation criteria, DHS found that this location best met the purpose and need to site, construct and operate the NBAF. Specifically, the site location near KSU provides site proximity to existing research capabilities that can be linked to NBAF mission requirements. Additionally, the site’s proximity to the KSU College of Veterinary Medicine, KSU College of Agriculture, and the Biosecurity Research Institute is relevant to the NBAF mission and a significant strength; and

WHEREAS, The bipartisan Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism’s October 2009 progress report called *The Clock is Ticking* defined the critical importance of the NBAF by concluding that bioterrorism is the most imminent threat to our homeland security and called for investment to limit the consequences of a bioweapons attack and improve our nation’s capabilities to recognize, respond and recover from such an attack; and

WHEREAS, The State of Kansas recognizes this threat and has committed to partner with the Department of Homeland Security and the United States Department of Agriculture to initiate NBAF related research during the construction of the NBAF in order to accelerate its critical mission of protecting our nation’s agriculture economy; and

WHEREAS, Once construction is completed, the NBAF will serve as the nation’s premier research facility for developing vaccines and countermeasures for diseases that threaten livestock and other animals, which agricultural and bioterrorism experts consider an urgent national priority; and

WHEREAS, The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (P.L. 110-329) requires that, having chosen a site other than Plum Island New York, the Department of Homeland Security Secretary is to sell Plum Island through the General Services Administration. Proceeds of the sale shall be available for site acquisition, construction and costs related to the construction of the NBAF: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That we recognize the vital role the National Bio and Agro-defense Facility will play in the future to securing our country from natural and deliberate threats to our food supply, agricultural economy and public health posed by dangerous foreign animal diseases; that we urge the federal government to act aggressively in addressing the threats of bioterrorism; and

Be it further resolved: The construction and operations of the National Bio and Agro-defense Facility must be accelerated to eliminate the capability gap outlined in 2004 by DHS, the 2009 *The Clock is Ticking* report, and provide the research, testing, and evaluation necessary to secure the nation’s food supply and agricultural economy.

Be it further resolved: That we urge the United States Congress provide for funding to ensure the timely construction and operations of the National Bio and Agro-defense Facility and that the Department of Homeland Security and the General Services Administration to move quickly to sell Plum Island; and

Be it further resolved: That copies of this resolution be provided to President Obama and Vice President Biden, Secretary Napolitano of the U.S. Department of Homeland Security, Secretary Vilsack of the U.S. Department of Agriculture, Secretary Sebelius of the U.S. Department of Health and Human Services, the U.S. House of Representatives and U.S. Senate homeland security appropriations subcommittees, the Kansas congressional delegation and Governor Mark Parkinson.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were referred to Committees as indicated:

Assessment and Taxation: **SB 472, SB 476; SCR 1624.**
 Business and Labor: **SB 474.**
 Federal and State Affairs: **SB 475.**
 Judiciary: **SB 468, SB 469, SB 471.**
 Local Government: **SB 470.**
 Public Health and Welfare: **SB 467, SB 473.**
 Ways and Means: **HB 2414.**

MESSAGE FROM THE GOVERNOR

January 27, 2010

To the Senate of the State of Kansas:

Submitted herewith to the Senate by me, the Governor of the State of Kansas, pursuant to law, is the request that Michael Moffet be withdrawn for the following reappointment submitted August 4, 2009.

Commissioner, State Corporation Commission, Michael C. Moffet pursuant to the authority vested in me by KSA 74-601, effective upon the date of confirmation by the Senate, to serve a term of four years.

MARK PARKINSON
 Governor

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Committee on Natural Resources introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1809—

A RESOLUTION opposing the United States Environmental Protection Agency's greenhouse gas regulation by rulemaking.

WHEREAS, The United States Environmental Protection Agency's decision to declare greenhouse gases a toxic pollutant and to further regulate greenhouse gases represents a stark deviation from the normal federal legislative process; and

WHEREAS, Lawmaking that impacts entire sections of the American economy should not be done by administrative fiat, but rather such laws and regulations should be made by elected members of the United States Congress who can act upon the views of their constituents and be held accountable for their votes by fair and frequent elections; and

WHEREAS, The United States Environmental Protection Agency, by creating such a unilateral ruling, has circumvented the Constitutionally required separation of powers and sets a dangerous precedent for our nation; and

WHEREAS, This ruling has far-reaching negative consequences both nationally, and for the state of Kansas; and

WHEREAS, The state of Kansas produces significant amounts of oil and natural gas as well as numerous agricultural products such as cattle, sheep, wheat, sorghum, soybeans, cotton, hogs and corn, all of which would be subject to strict regulation and would be harmed by increased input costs and other economic strains; and

WHEREAS, During strenuous economic times, ordinary Kansans cannot afford to be hit with onerous regulations on our most crucial economic sectors; and

WHEREAS, The state of Kansas joins with other states and officials in requesting the Environmental Protection Agency to withdraw its ruling so that economic impact of such a decision can be considered and so that the normal legislative process can be pursued: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the leaders of the state of Kansas urge the United States Environmental Protection Agency to withdraw its rule that declares greenhouse gases a "toxic pollutant" and further regulates such gases. The leaders of the state of Kansas urge that such lawmaking be done through the normal legislative process so that important economic concerns may be considered.

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to the governor of the state of Kansas, Mark Parkinson, and the Kansas Congressional delegation.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** begs leave to submit the following report:

The following appointments were referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointments:

By the Governor:

Kansas Technology Enterprise Corp.: K.S.A. Supp. 74-8101

Thomas M. Cohen, term expires January 15, 2011

Kansas Development Finance Authority: K.S.A. 74-8903

Suchitra Padmanabhan, term expires January 15, 2013

Committee on **Ethics and Elections** recommends **SB 421, SB 426** be passed.

Committee on **Judiciary** begs leave to submit the following report:

The following appointments were referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointments:

By the Attorney General:

Crime Victims Compensation Board, Chairperson: K.S.A. 74-7303

Suzanne Valdez, term expires March 15, 2012

By the Governor:

State Board of Indigents' Defense Services: K.S.A. 22-4519

John Poertner, term expires January 15, 2011

On motion of Senator D. Schmidt the Senate adjourned until 8:00 a.m., Friday, January 29, 2010.

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

PAT SAVILLE, *Secretary of the Senate.*

