

Journal of the Senate

FOURTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, January 16, 2014, 2:30 p.m.

The Senate was called to order by Vice President Jeff King.
The roll was called with thirty-nine Senators present.
Senator Holland was excused.

Invocation by Father Don Davidson:

Dear God, we have so many questions. Not just questions in committees or questions of individuals, but questions about life and living and why things are the way they seem to be. We are all made in your image and yet we are all so very different and in that difference we glimpse your magnificence. Help us, Creator God, to marvel and wonder at the diversity of your people and thank you for giving us the mindfulness of thanksgiving. In your holy name we pray.

The Pledge of Allegiance was led by Vice President Jeff King.

POINT OF PERSONAL PRIVILEGE

Senator Haley rose on a Point of Personal Privilege to recognize the life and legacy of Dr. Martin Luther King.

Fellow Members of the Kansas Senate: You know, I just realized that this address today marks my twentieth to the Legislature; 6 in the House and 14 here on the Senate floor imploring you and many of our predecessors to make something meaningful of this weekend; something exemplary of this Holiday, and not just treat it as some “another day off,” post Christmas and New Year’s. Maybe to punctuate the sincerity and, as always, the urgency, maybe we should probably refer to this appeal as the first time since the completion of the beautifully remodeled Statehouse dome that’s just been finished prior to the start of this Session; and its reminder underneath of the precepts of “liberty and justice” for all.

So thank you for allowing today for me to try to not only salute but to implore a responsible implementation of the true meaning of the holiday weekend before us: the celebration of human equality and civil rights represented by the legacy of Dr. Martin Luther King Jr. Mr. Vice President, remembering the first such appeal (which was promoted during my very first week in the Kansas Legislature by former House Speaker Tim Shallenburger and House Minority Leader Tom Sawyer BOTH of whom I visited together with fondly about this “anniversary” last night after the State of the State address), I remember the “tag” team of the remembrance (which would continue those 6

years) with the gentle and committed Rep. Mike Farmer (whose memory is indelibly engraved in my heart) who would recount the biographical events of Dr. King's life and I would follow with some remarks.

Michelle and my first (now of four!) born, Mariah (who is with us today on the Senate floor; still home on break from her first year at Wellesley) was half-way through gestation but not even near birth when I nervously stood before so many strangers in the big House Chamber, again during the very first week of elected service, and asked of you, to honor this hard fought for truly unique AMERICAN Holiday with joy and thanksgiving; to share among our constituencies as leaders that this is ALL of our Holiday...that it doesn't belong to your political party or to mine, or to your religion or to mine, or to any of the tenets that are often used to divide AMERICANS but the Martin Luther King Holiday belongs to us ALL. It belongs to us ALL. And, it is fitting to share that ownership, with pride, to those we are elected to speak for, and speak TO.

The Senate Chaplain just bade us pray for the marvel of our diversity. We are to address the Senate on this occasion as I do every year. While it is an annual affair, it is not one to be merely observed. We must use this holiday as an opportunity to remember the legacy of Dr. King while we move forward and follow the example he set.

As we begin this new year and this new legislative session, I implore you my colleagues to reflect upon Dr. King's values and leadership; to remember him as a passionate and empathetic leader; one who emphasized love above hate, and compassion above selfishness. He knew how to unite people through our similarities rather than further find ways to divide us by perceived differences.

When my truck broke down after midnight last night on a near freezing highway, the multi-hued collective; brown, white and black pulled together to help; as we can all, irrespective of color, as AMERICANS pull together to advance our collective well-being.

Late last year, the world lost another great leader who shared that message. Similar to Dr. King, Nelson Mandela grew up in a divided society during a time of deep racism and hatred that permeated through nearly every aspect of life. Mandela fought to end forced racial segregation in South Africa and for that advocacy, he'd serve 27 years as a political prisoner. But he did not hold animosity towards his captors; he forgave them and would go on to lead all South Africans in a peaceful and democratic nation; one no longer openly divided by apartheid. "For to be free is not merely to cast off one's chains, but to live in a way that respects and enhances the freedom of others."

The message of these great leaders is as relevant today as it ever was. We can move away, not towards, the often times polarization of our politics. This weekend is a celebration not of a man as much as a movement and also a celebration of every man and woman who holds the values of freedom and of equal respect for all. As Senators, we can continue to move forward with the dream of a world defined not by our differences, but by what brings us together. "Take the first step in faith. You don't have to see the whole staircase, just take the first step." Have a safe and reverent Martin Luther King Holiday.

SPECIAL REMARKS

Senator Faust-Goudeau recognized Commissioner Joseph Elmore, Wichita, Pastor Tony Stanley, Topeka, and Wichita Commissioner Shur'dell Drath'at, who were the Governor's escorts for the special ceremony in recognition of Martin Luther King's life

and legacy. The Senators recognized them with a standing ovation.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 265, AN ACT concerning income tax; relating to homestead refund; income defined, eligibility; amending K.S.A. 2013 Supp. 79-32,263 and 79-4502 and repealing the existing sections, by Committee on Assessment and Taxation.

SB 266, AN ACT concerning severance tax; relating to tax payment and return filing date; amending K.S.A. 79-4220 and 79-4221 and repealing the existing sections, by Committee on Assessment and Taxation.

SB 267, AN ACT concerning insurance; relating to security deposits, acceptable assets for deposit; forms, handwritten signatures required; amending K.S.A. 2013 Supp. 40-229a and repealing the existing section, by Committee on Financial Institutions and Insurance.

SB 268, AN ACT concerning insurance; relating to risk-based capital requirements for certain insurers; amending K.S.A. 2013 Supp. 40-2c01 and repealing the existing section, by Committee on Financial Institutions and Insurance.

SB 269, AN ACT concerning the rules of evidence; relating to erroneous admission of evidence and timely objection; amending K.S.A. 60-404 and repealing the existing section, by Committee on Judiciary.

SB 270, AN ACT concerning criminal procedure; relating to mental status defenses; notice and procedure; amending K.S.A. 22-3219 and repealing the existing section, by Committee on Judiciary.

SB 271, AN ACT concerning the Kansas medicaid fraud control act; relating to penalties and fines; amending K.S.A. 2013 Supp. 21-5926, 21-5927, 21-5933 and 75-7508 and repealing the existing sections, by Committee on Judiciary.

SB 272, AN ACT concerning wildlife, parks and recreation; relating to controlled shooting areas; amending K.S.A. 32-945 and repealing the existing section, by None.

SB 273, AN ACT concerning motor vehicles; relating to distinctive license plates; providing for the rotary international license plate, by Committee on Transportation.

SB 274, AN ACT concerning campaign finance; amending K.S.A. 25-4153b and repealing the existing section, by Committee on Federal and State Affairs.

SB 275, AN ACT concerning elections; dealing with improper use of public funds and equipment; amending K.S.A. 2013 Supp. 25-4169a and repealing the existing section, by Committee on Federal and State Affairs.

SB 276, AN ACT concerning wildlife; enacting the state sovereignty over non-migratory wildlife act, by Committee on Federal and State Affairs.

SB 277, AN ACT concerning school districts; relating to the calculation of local property tax and the local option budget under the school finance formula; amending K.S.A. 2013 Supp. 72-6433d and repealing the existing section, by Committee on Ways and Means.

SB 278, AN ACT concerning the state board of veterinary examiners; relating to the veterinary examiners fee fund; powers of the board; establishing the board within the animal health division of the Kansas department of agriculture for a two-year period; amending K.S.A. 2013 Supp. 47-820 and 47-821 and repealing the existing sections, by Committee on Ways and Means.

SB 279, AN ACT concerning utilities; relating to electric transmission, by Committee

on Utilities.

SB 280, AN ACT concerning utilities; relating to net metering; amending K.S.A. 2013 Supp. 66-1264, 66-1265 and 66-1266 and repealing the existing sections, by Committee on Utilities.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: **SB 262**.

Federal and State Affairs: **SB 263, SB 264**.

Judiciary: **SB 259, SB 260, SB 261**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Faust-Goudeau introduced the following Senate resolution, which was read:
SENATE RESOLUTION No. 1775—

A RESOLUTION remembering the Piatt plane crash.

WHEREAS, Tragedy struck Wichita on the cold Saturday morning of January 16, 1965. While many children were watching cartoons at 9:31 a.m., a fuel-laden KC-135A jet tanker from McConnell Air Force Base crashed into the neighborhood of 20th and Piatt Streets, killing seven air crewmen and 23 residents, including an unborn child. In addition, numerous family pets were lost; and

WHEREAS, The events of the tragic day united Wichitans in the spirit of helping their fellow citizens, including response teams of emergency workers, medical personnel, ministers and counselors; and

WHEREAS, A local committee of citizens responded by organizing a memorial service on June 9, 2001, at McConnell Air Force Base in Wichita, Kansas. Members of this committee included Claude L. Daniels, Jr., Victor S. Daniels, Evonne W. Dugan, Timmi Jackson, Dorothy Nixon and other members of the community; and

WHEREAS, After September 11, 2001, security on the base was tightened for safety, and civilian family members were denied entrance to the base. However, a marker is still on the base grounds to serve as a monument to those who perished; and

WHEREAS, The lack of access to McConnell Air Force Base prompted a second committee of local citizens to form, known as the Piatt Memorial Park Project Committee. The Committee was organized by Oletha Faust-Goudeau, a Kansas State Representative at the time. The Committee petitioned the Wichita City Council in 2004 to rename Piatt Park to "Piatt Memorial Park" to better reflect the site's history; and

WHEREAS, The Piatt Memorial Park Project Committee began raising funds for the memorial in 2004, and a monument was erected in 2007 at the site of the crash. The monument is fifteen feet tall, made of black granite and is surrounded by commemorative bricks and benches where family members can sit and reflect; and

WHEREAS, The unveiling and dedication ceremony for the monument took place on July 14, 2007, at the site of the crash, and 150 people were in attendance. At the site is a Kansas State Flag, presented by Former Governor Kathleen Sebelius, and an American Flag, presented by Former U.S. Representative Todd Tiahrt; and

WHEREAS, The Piatt Memorial Park Project Committee members include: Chair,

Senator Oletha Faust-Goudeau; Vice Chair, Dr. Carla Lee; Secretary, John Polson; Treasurer, Inga Taylor; Survivor, Sonya House; Honorary Member, Captain Kelly Bolen, Tanker/Refueling Unit, MAFB; and members, James Arbertha and Jamil Moody; and

WHEREAS, The Kansas Historical Society recognizes the Piatt plane crash as the "Worst Non-natural Disaster Occurring in Kansas History," where the most people died on the same day, at the same time, and in the same place, in Kansas history; and

WHEREAS, D.W. Carter, a Kansas historian and educator, authored a book entitled "Mayday over Wichita: The Worst Military Aviation Disaster in Kansas History," recalling the events of that cold winter day in January 1965, and examining the myths and realities of the crash while providing new insights about the horrific four-minute flight that forever changed the history of Kansas; and

WHEREAS, A website was designed by Colonel Duncan of the Commemorative Air Force Jayhawk Wing, and can be found at www.duncanwebsiteservices.com/piatt_memorial/index.htm; and

WHEREAS, The current members of the Piatt Memorial Park Project Committee seek to honor and remember the victims of the Piatt plane crash: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we remember January 16, 2014, as the 49th anniversary of this tragic event and honor those who perished; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this resolution to Senator Oletha Faust-Goudeau, Governor Sam Brownback, Wichita Mayor Carl Brewer, the Kansas Historical Society, Victor Daniels, Timmi Jackson, Dr. Carla Lee and John Polson.

On emergency motion of Senator Faust-Goudeau **SR 1775** was adopted unanimously.

CONSIDERATION OF APPOINTMENTS

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

Senator Bruce moved the following appointment be confirmed as recommended by the Committee on **Utilities**.

State Corporation Commission:

Jay Emler, Term ends March 15, 2015

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Present and Passing: Emler.

Absent or Not Voting: Holland.

The appointment was confirmed.

EXPLANATION OF VOTE

Mr. Vice President: It is an honor and privilege to confirm Senator Jay Emler to the Kansas Corporation Commission. Senator Emler has served the people of Kansas in the Kansas Senate for 14 years with grace and dignity. Senator Emler is a true gentleman, a

statesman and a person of his word. Always treating others with respect and kindness, even if they disagree. The Kansas Senate will miss his presence in the chamber and in the hallways of the Capitol. The Kansas Senate is a better institution because of his service and we are better Senators having served with him. We wish Senator Emler well in his new role as Commissioner of the Kansas Corporation Commission. Senator Emler, on behalf of the Kansas Senate, well done my friend and we wish you Godspeed.

—PAT APPLE

Senator Faust-Goudeau, Senator Francisco, Senator Haley, Senator Hensley, Senator Kelly, Senator King, Senator Longbine and Senator Petersen request the record to show they concur with the "Explanation of Vote" offered by Senator Apple.

Mr. Vice President: I am proud to have called Senator Emler my friend for the past fourteen years. Ralph Waldo Emerson says it best: "The glory of friendship is not the outstretched hand, not the kindly smile, nor the joy of companionship; it is the spiritual inspiration that comes to one when you discover that someone else believes in you and is willing to trust you with a friendship."—RALPH OSTMEYER

On motion of Senator Bruce, the Senate adjourned until 8:00 a.m., Friday, January 17, 2014.

ROSE MARIE GLATT, CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.
COREY CARNAHAN, *Secretary of the Senate*.

