

Journal of the House

THIRTEENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, January 27, 2011, 11:00 a.m.

The House met pursuant to adjournment with Speaker O'Neal in the chair.

The roll was called with 120 members present.

Reps. Denning, Mosier and Suellentrop were excused on legislative business.

Reps. Donohoe and D. Gatewood were excused on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Bill LaPorte, Moran Christian Church, Moran, and guest of Rep. Otto:

Father we gather here today in this chamber in gratitude that you are God and you alone have created all men equal and endowed us with our inalienable rights. We gather here today mindful that the laws of nature and of nature's God hold all of us and call us great and small, rich and poor, powerful and weak to be accountable for our thoughts and our actions.

Confessing Father that you alone are the source of the self-evident truths of equality and individual rights, upon which our liberty in the United States of America is founded, I humbly ask your blessings of wisdom and protection upon all our elected and appointed officials from Washington D.C. to the Kansas Governor's Office, to the Kansas State House, to the Kansas Courts; from the Courthouses, to our schools, and into the security and sanctity of our own homes. For the military, the police, and all security personnel who are standing faithful watch risking their lives for us, I ask that you would be their shield and rear guard, granting them the wisdom to be successful in their faithful and righteous mission to preserve, protect and defend the peaceful and tranquil pursuit of life, liberty and happiness.

Father, heal our land. Forgive us our sins and forgive those who sin against us. Renew in us the same spirit of liberty embodied in President Lincoln's timeless and healing vision, "That this nation, under God, shall have a new birth of freedom." Guide our stewardship of our state's resources and its bounty. Help us to be a people who walk humbly before you and practice in all sincerity and righteousness our love for you and our love for our neighbor.

Instill in us the spirit of generous love for the elderly, the needy, and our children's education and well being. Grant us the strength of character to respect and defend the lawful rights of all mankind.

Father, as our elected officials gather here in the Kansas State Legislature I appeal to you, the Supreme Judge of the world, for the rectitude of their intentions and “We the people” they represent that our laws and the enforcements thereof may be just and righteous, our discourse civil, our behavior and thoughts wholesome, righteous and good.

Father we need your divine providence and protection daily. Lead us not into temptation but deliver us from evil. Guide us in the paths of righteousness for your name's sake/

Father I humbly offer these confessions, these requests, these petitions, and this prayer with a firm reliance in the name of nature's God, Jesus Christ. Amen.

The Pledge of Allegiance was led by Rep. Garber.

Kansas Trivia Question – The Kansas flag has a wreath above the state seal. What does the wreath represent?

Answer: Kansas as a part of the Louisiana Purchase of 1803.

INTRODUCTION OF GUESTS

Rep. Ward introduced members of the Junior ROTC Program from Wichita who are spending the day at the Capitol.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2110, AN ACT concerning the state long-term care ombudsman; relating to the Kansas soldiers' home and Kansas veterans' home; establishing an advisory committee on advocacy options within the home; amending K.S.A. 2010 Supp. 75-7303 and repealing the existing section, by Committee on Aging and Long Term Care.

HB 2111, AN ACT concerning child care; amending K.S.A. 2010 Supp. 39-7,129, 59-29a11, 65-503, 65-504, 65-505, 65-506, 65-508, 65-512, 65-516, 65-516, as amended by section 15 of this act, 65-523, 65-524, 65-526, 65-530 and 65-531 and repealing the existing sections; also repealing K.S.A. 2009 Supp. 65-525 as amended by section 13 of chapter 161 of the 2010 Session Laws of Kansas and K.S.A. 2010 Supp. 65-504a, 65-516b, 65-530a, 65-532, 65-533 and 65-534, by Committee on Children and Families.

HB 2112, AN ACT concerning taxation; relating to state property tax levy for state institutions for care of certain persons and children; amending K.S.A. 2010 Supp. 76-6b04 and repealing the existing section, by Committee on Vision 2020.

HB 2113, AN ACT concerning taxation; relating to state property tax levy for institutions of higher education; amending K.S.A. 76-6b02 and K.S.A. 2010 Supp. 76-6b01 and repealing the existing sections, by Committee on Vision 2020.

HB 2114, AN ACT concerning retirement and pensions; relating to the Kansas police

and firemen's retirement system; vesting; amending K.S.A. 2010 Supp. 74-4963a and repealing the existing section, by Committee on Vision 2020.

HB 2115, AN ACT concerning civil procedure; relating to covered offenses and conduct giving rise to forfeiture; amending K.S.A. 2010 Supp. 60-4104 and repealing the existing section, by Representative Sloan.

HB 2116, AN ACT concerning taxation; establishing state property tax levy for state water infrastructure; relating to purposes; rate; authorized uses; disposition of moneys, by Committee on Vision 2020.

HB 2117, AN ACT concerning sales taxation; relating to imposition of tax; exemptions; amending K.S.A. 2010 Supp. 79-3603 and repealing the existing section, by Committee on Taxation.

HB 2118, AN ACT concerning crimes, criminal procedure and punishment; relating to supervision fees for appearance bonds; amending K.S.A. 2010 Supp. 22-2802 and section 244 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing sections, by Committee on Corrections and Juvenile Justice.

HB 2119, AN ACT concerning emergency medical services; relating to accident response service fees; amending K.S.A. 80-1557 and repealing the existing section, by Committee on Local Government.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Aging and Long Term Care: **HB 2108**.

Agriculture and Natural Resources: **HB 2096** (separately); **2099**, **2109**.

Children and Families: **HB 2103** (separately); **HB 2105**.

Commerce and Economic Development: **HB 2092**.

Corrections and Juvenile Justice: **HB 2098**, **2104**.

Education Budget: **HB 2100**.

Energy and Utilities: **HB 2097**; **HR 6008**.

Federal and State Affairs: **HB 2107**.

Health and Human Services: **HB 2094**, **HB 2095**.

Judiciary: **HB 2101**, **HB 2102**; **HB 2103** (separately); **HB 2106**.

Transportation: **HB 2093**.

Vision 2020: **HB 2096** (separately).

MESSAGE FROM THE GOVERNOR

Executive Reorganization Order No. 36

By Governor Sam Brownback

January 27, 2011

Pursuant to Article 1, Section 6(b) of the Constitution of the State of Kansas, I am transmitting this day Executive Reorganization Order No. 36 to both houses of the Kansas Legislature. Simultaneously with this Order, I am transmitting the accompanying Governor's Message.

In these difficult economic times, state government must be organized to market our state's assets to national and international visitors more effectively. The purpose of this Executive Reorganization Order is to:

- 1) Rename the Department of Wildlife and Parks as established by K.S.A. 32-801 *et seq.* as the Department of Wildlife, Parks and Tourism.
- 2) Abolish the Assistant Secretary of Operations position as established by K.S.A. 32-802, and in its place establish an Assistant Secretary of Wildlife, Fisheries, and Boating and an Assistant Secretary of Parks and Tourism.
- 3) Transfer the powers, functions, and duties of the Division of Travel and Tourism Development at the Department of Commerce as established by K.S.A. 74-5032 and K.S.A. 74-5032(a) and amendments thereto, to the Department of Wildlife, Parks and Tourism.

As I said in my State-of-the State speech, as we set the stage for economic growth in Kansas we must take greater advantage of tourism opportunities in areas such as the Flint Hills and increase hunting opportunities that already draws millions of dollars to our state year after year. The new structure will allow state government to focus our resources on this important goal more effectively and encourage innovative partnerships between the private and public sectors that can improve our state park system and encourage more visitors to discover the treasures of Kansas. I look forward to working with the Legislature and my fellow Kansans on achieving these important goals in the months and years to come.

Executive Reorganization Order No. 36
By Governor Sam Brownback
Transmitted January 27, 2011

Section 1. (a) The Kansas department of wildlife and parks as established by K.S.A. 32-801 *et seq.* is hereby renamed the Kansas department of wildlife, parks and tourism and the secretary of wildlife and parks is hereby renamed the secretary of wildlife, parks and tourism.

(b) Except as otherwise provided by this order, the Kansas department of wildlife, parks and tourism and the secretary of wildlife, parks and tourism shall be the successor in every way to the powers, duties and functions of the Kansas department of wildlife and parks and the secretary of wildlife and parks in which the same were vested prior to the effective date of this order. Every act performed in the exercise of such powers, duties and functions by or under the authority of the Kansas department of wildlife, parks and tourism or the secretary of wildlife, parks and tourism shall be deemed to have the same force and effect as if performed by the Kansas department of wildlife and parks or the secretary of wildlife and parks in which such powers, duties and functions were vested prior to the effective date of this order.

(c) Whenever the Kansas department of wildlife and parks, or words of like effect, are referred to or designated by a statute, contract or other document, and such reference or designation is in regard to any function, power or duty of the Kansas department of wildlife and parks, such reference or designation shall be deemed to apply to the Kansas department of wildlife, parks and tourism.

(d) Whenever the secretary of wildlife and parks, or words of like effect, are referred to or designated by a statute, contract or other document, and such reference or designation is in regard to any function, power or duty of the secretary of wildlife and parks, such reference or designation shall be deemed to apply to the secretary of wildlife, parks and tourism.

(e) All rules and regulations, orders and directives of the secretary of wildlife and parks that are in effect on the effective date of this order shall continue to be effective and shall be deemed to be rules and regulations, orders and directives of the secretary of wildlife, parks and tourism until revised, amended, revoked or nullified pursuant to law.

Sec. 2. (a) The secretary of wildlife, parks and tourism shall appoint an assistant secretary for wildlife, fisheries and boating and an assistant secretary for parks and tourism. The assistant secretaries shall serve at the pleasure of the secretary of wildlife, parks and tourism. The assistant secretaries shall be in the unclassified service under the Kansas civil service at and shall receive an annual salary fixed by the secretary of wildlife, parks and tourism with the approval of the governor. The assistant secretaries shall have such powers, duties and functions as are assigned to them by the secretary or are prescribed by law. The assistant secretaries shall act for and exercise the powers of the secretary of wildlife, parks and tourism to the extent authority to do so is delegated by the secretary of wildlife, parks and tourism.

(b) The position of assistant secretary for operations as established by K.S.A. 32-802 is hereby abolished.

Sec. 3. (a) There is hereby established, within the Kansas department of wildlife, parks and tourism, the division of tourism. The head of the division of tourism shall be the director of tourism, who shall be appointed by and serve at the pleasure of the secretary of wildlife, parks and tourism. The director of tourism shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of wildlife, parks and tourism.

(b) (1) The director of tourism shall appoint, in accordance with the provisions of the Kansas civil service act, such employees as may be needed, in the judgment of the director, to carry out the powers and duties of the division of tourism.

(2) All officers and employees of the division of tourism shall act for and exercise the powers of the director of tourism to the extent that authority to do so is delegated by the director. Subject to the provisions of this order, the director of tourism may organize the division of tourism in the manner the director of tourism deems most efficient.

Sec. 4. (a) The division of travel and tourism development of the department of commerce and the office of the director of travel and tourism development of the department of commerce that were created by K.S.A. 74-5032, and amendments thereto, are hereby abolished.

(b) Except as otherwise provided by this order, all powers, duties and functions of the division of travel and tourism development and the director of travel and tourism development under K.S.A. 74-5032 and 74-5032a, and amendments thereto, are hereby transferred to and imposed upon the division of tourism and the director of tourism of the Kansas department of wildlife, parks and tourism.

Sec. 5. (a) Except as otherwise provided by this order, the division of tourism and the director of tourism of the Kansas department of wildlife, parks and tourism shall be the successor in every way to the powers, duties and functions of the division of travel and tourism development and the director of travel and tourism development of the department of commerce in which the same were vested prior to the effective date of this order and that are transferred pursuant to section 3 of this order. Every act performed in the exercise of such transferred powers, duties and functions by or under the authority of the division of tourism and the director of tourism of the Kansas

department of wildlife, parks and tourism shall be deemed to have the same force and effect as if performed by the division of travel and tourism development and the director of travel and tourism development of the department of commerce in which such powers, duties and functions were vested prior to the effective date of this order.

(b) Except as otherwise provided by this order, whenever the division of travel and tourism development of the department of commerce, or words of like effect, is referred to or designated by a statute, contract or other document, and such reference or designation is in regard to any function, power or duty of the division of travel and tourism development of the department of commerce, such reference or designation shall be deemed to apply to the division of tourism of the Kansas department of wildlife, parks and tourism.

(c) Except as otherwise provided by this order, whenever the director of travel and tourism development of the department of commerce, or words of like effect, are referred to or designated by a statute, contract, or other document, and such reference or designation is in regard to any function, power or duty of the director of travel and tourism development of the department of commerce, such reference or designation shall be deemed to apply to the director of tourism of the Kansas department of wildlife, parks and tourism.

(d) All rules and regulations, orders and directives of the secretary of commerce, that are in effect on the effective date of this order and that relate to any function, power or duty of the director of travel and tourism development of the department of commerce, shall continue to be effective and shall be deemed to be rules and regulations, orders and directives of the secretary of wildlife, parks and tourism until revised, amended, revoked or nullified pursuant to law. All orders and directives of the division of travel and tourism development or the director of travel and tourism development of the department of commerce, that are in effect on the effective date of this order and that relate to any function, power or duty of the division of travel and tourism development or the director of travel and tourism development of the department of commerce, shall continue to be effective and shall be deemed to be orders and directives of the division of tourism or the director of tourism of the Kansas department of wildlife, parks and tourism until revised, amended, revoked or nullified pursuant to law.

Sec. 6. (a) The balances of all funds or accounts thereof appropriated or reappropriated for the department of commerce relating to the powers, duties and functions transferred by this order are hereby transferred within the state treasury to the Kansas department of wildlife, parks and tourism and shall be used only for the purpose for which the appropriation was originally made.

(b) Liability for all accrued compensation or salaries of officers and employees who are transferred to the division of tourism of the Kansas department of wildlife, parks and tourism under this order shall be assumed and paid by the Kansas department of wildlife, parks and tourism.

Sec. 7. (a) When any conflict arises as to the disposition of any property, power, duty or function or the unexpended balance of any appropriation as a result of any abolition or transfer made by or under the authority of this order, such conflict shall be resolved by the governor, whose decision shall be final.

(b) The Kansas department of wildlife, parks and tourism shall succeed to all property, property rights and records which were used for or pertain to the performance

of powers, duties and functions transferred to the division of tourism of the Kansas department of wildlife, parks and tourism. Any conflict as to the proper disposition of property, personnel or records arising under this order shall be determined by the governor, whose decision shall be final.

Sec. 8. (a) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against any state agency or program mentioned in this order, or by or against any officer of the state in such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of this order. The court may allow any such suit, action or other proceeding to be maintained by or against the successor of any such state agency or any officer affected.

(b) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this order.

Sec. 9. (a) All officers and employees of the department of commerce who, immediately prior to the effective date of this order, are engaged in the exercise and performance of the powers, duties and functions transferred by this order, as well as all officers and employees of the department of commerce who are determined by the secretary of wildlife, parks and tourism to be engaged in providing administrative, technical or other support services that are essential to the exercise and performance of the powers, duties and functions transferred by this order, are hereby transferred to the division of tourism of the Kansas department of wildlife, parks and tourism. All classified officers and employees so transferred shall retain their status as classified employees.

(b) Officers and employees of the department of commerce transferred by this order shall retain all retirement benefits and leave balances and rights which had accrued or vested prior to the date of transfer. The service of each such officer or employee so transferred shall be deemed to have been continuous. Any subsequent transfers, layoffs or abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this order shall affect the classified status of any transferred person employed by the Kansas health policy authority prior to the date of transfer.

(c) Notwithstanding the effective date of this order, the provisions of this order prescribing the transfer of officers and employees from the department of commerce to the division of tourism of the Kansas department of wildlife, parks and tourism established by this order, the date of transfer of each such officer or employee shall commence at the start of a payroll period.

Sec. 10. Except as otherwise provided by this order, all of the provisions of this order shall take effect and have the force of general law on July 1, 2011, unless disapproved by either house of the Kansas legislature as provided by subsection (c) of section 6 of article 1 of the constitution of Kansas, and unless so disapproved, this order is to be published as and with the acts of the legislature and the statutes of this state.

DONE AT The Capitol in Topeka
Under the Great Seal of the
State of Kansas this 27th day
of January 2011

JANUARY 27, 2011

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BY THE GOVERNOR
SAM BROWNBACK

KRIS W. KOBACH
Secretary of State
ERIC RUCKER
Assistant Secretary of State

REPORTS OF STANDING COMMITTEES

Committee on **Corrections and Juvenile Justice** recommends **HB 2001, HB 2057** be passed.

Committee on **Transportation** recommends **HB 2033** be passed.

READING AND CORRECTION OF THE JOURNAL

In the Journal, on page 109, **ERO 34** should appear as being referred to Committee on Corrections and Juvenile Justice. Also, in the Journal, on page 114, **ERO 35** should appear as being referred to Committee on Judiciary.

On motion of Rep. Siegfried, the House adjourned until 10:30 a.m., Friday, January 28, 2011.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

