

Journal of the Senate

TENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, January 24, 2011, 2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-seven senators present.
Senators Marshall, Olson and Schmidt were excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

I came to Topeka to make a difference.
I came to make a difference in my district and my state.
I may not made a big splash, but I can make some ripples.
I may not make a lot of friends, but I can make a lot of noise.
I may not make Who's Who, but I can tell them What's What.
I may never make Washington, but I can make Topeka know I'm here.
I may not always make sense, but I can make a difference.

But I am fully aware O God, that I will never make a difference in the lives of others, until I let You make a difference in me.

Please do it in the Name of Jesus Christ.

AMEN

The pledge of allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 44, AN ACT concerning domestic relations; relating to marital property; amending K.S.A. 23-201 and repealing the existing section, by Committee on Judiciary.

SB 45, AN ACT concerning trusts; relating to certification of trust; amending K.S.A. 58a-1013 and repealing the existing section, by Committee on Judiciary.

SB 46, AN ACT concerning civil procedure; relating to electronic filing; amending K.S.A. 60-2601 and 60-2601a and repealing the existing sections, by Committee on Judiciary.

SB 47, AN ACT concerning the uniform trust code; relating to modification or termination of noncharitable trust by consent; creditor claims against settlor; amending K.S.A. 58a-505 and K.S.A. 2010 Supp. 58a-411 and repealing the existing sections; also repealing K.S.A. 33-101 and 58a-818, by Committee on Judiciary.

SB 48, AN ACT concerning probate; relating to payment of claims; filing of wills; order in which assets are appropriated; amending K.S.A. 59-103 and 59-1405 and K.S.A. 2010 Supp. 59-618a and repealing the existing sections, by Committee on Judiciary.

SB 49, AN ACT concerning retirement and benefits; relating to the Kansas public employees retirement system and systems thereunder; employer and employee contributions; benefits; amending K.S.A. 74-4915 and 74-4919 and K.S.A. 2010 Supp. 74-4914d, 74-4920, 74-49,205 and 74-49,210 and repealing the existing sections, by Committee on Joint Committee on Pensions, Investments, and Benefits.

SB 50, AN ACT concerning emergency communications service; relating to fees, charges, collection and distribution; amending K.S.A. 2010 Supp. 12-5338, 12-5361, 45-221 and 75-5133 and repealing the existing sections; also repealing K.S.A. 12-5303, 12-5305, 12-5306, 12-5307, 12-5308, 12-5309 and K.S.A. 2010 Supp. 12-5301, 12-5302, 12-5304, 12-5310, 12-5321, 12-5322, 12-5323, 12-5324, 12-5325, 12-5326, 12-5327, 12-5328, 12-5329, 12-5330, 12-5331, 12-5332, 12-5333, 12-5334, 12-5335, 12-5336, 12-5337, 12-5351, 12-5352, 12-5353, 12-5354, 12-5355, 12-5356, 12-5357, 12-5358, 12-5359 and 12-5360, by Committee on Utilities.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: **SB 42** (Separately).

Education: **SB 41**.

Ethics and Elections: **SB 43**.

Local Government: **SB 40**.

Ways and Means: **SB 42** (Separately).

MESSAGES FROM THE GOVERNOR

January 24, 2011

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Reorganization Order No. 34 and the Governor's Message for that ERO for your information.

Governor's Message
Executive Reorganization Order No. 34
By Governor Sam Brownback
January 24, 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. 34 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 needs to get back to the basics by focusing on the things that it should rightfully be doing and doing them in the most efficient manner possible. Achieving this goal requires that we eliminate redundancies. In this spirit of streamlining government, I am ordering the consolidation of parole review functions in the executive branch by abolishing the Parole Board as established by K.S.A. 22-3701 etseq. and establishing within the Department of Corrections the Prisoner Review Board.

The Kansas Sentencing Guidelines Act became effective on July 1, 1993 requiring convicted persons to be sentenced pursuant to a determinate sentencing grid. This did away with traditional indeterminate sentencing and its provisions for parole. Since then, the numbers of inmates for whom the possibility of parole exists have dwindled both in real numbers and in the percentage of the total inmate population, thus reducing the need for a full-time, independent state agency to review parole applications.

Additionally, the Department of Corrections already collects data on each inmate up for parole. This data is then transmitted to the Parole Board and forms the basis for the review of each application. By consolidating these functions within the Department's new Prisoner Review Board staffed by existing Department employees, the process will be streamlined and cost savings will be realized immediately. My Fiscal Year 2012 Budget Report anticipates that the State of Kansas will save nearly one-half million taxpayer dollars from this consolidation alone.

As I said in my State-of-the-State speech, the days of ever-expanding government are over. This consolidation is a modest first step toward making state government leaner and more efficient. 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. 34
By Governor Sam Brownback
Transmitted January 24, 2011

Section 1. There is hereby established, within the Kansas department of corrections, the prisoner review board. The prisoner review board shall be administered under the supervision of the secretary of corrections. The prisoner review board shall consist of three members appointed by the secretary of corrections and all members shall serve at the pleasure of the secretary. The members of the prisoner review board shall be existing employees of the department of corrections.

Sec. 2. (a) The Kansas parole board established by K.S.A. 22-3707 is hereby abolished. The prisoner review board shall be a continuation of the Kansas parole board.

(b) All of the powers, duties and functions of the existing Kansas parole board are hereby transferred to and imposed upon the prisoner review board.

Sec. 3. (a) The prisoner review board shall be the successor in every way to the powers, duties and functions of the Kansas parole board in which the same were vested prior to the effective date of this order. Every act performed in the exercise of such transferred powers, duties and functions by or under the authority of the prisoner review board shall be deemed to have the same force and effect as if performed by the Kansas parole board in which such powers, duties and functions were vested prior to the effective date of this order.

(b) Whenever the Kansas parole board, or words of like effect, are referred to or designated by a statute, contract, memorandum of understanding, plan, grant, waiver or other document, such reference or designation shall be deemed to apply to the prisoner review board.

(c) All rules and regulations, orders and directives of the Kansas parole board 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 corrections until revised, amended, revoked or nullified pursuant to law.

Sec. 4. The balances of all funds or accounts thereof appropriated or reappropriated for the Kansas parole board are hereby transferred within the state treasury to the Kansas department of corrections and shall be used only for the purpose for which the appropriation was originally made.

Sec. 5. (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 department of corrections shall succeed to all property, property rights, and records which were used for or pertain to the performance of powers, duties, and functions of the Kansas parole board transferred to the prisoner review board. 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. 6. (a) No suit, action, or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against any state agency 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. 7. 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 21st day
of January 2011.

BY THE GOVERNOR
SAM BROWNBACK

KRIS W. KOBACH
SECRETARY OF STATE

ERIC RUCKER
ASSISTANT SECRETARY OF STATE

January 24, 2011

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Order No. 11-01 for your information.

Sam Brownback
Governor of the State of Kansas

The President announced Executive Order No. 11-01, creating the office of Repealer within the Kansas Department of Administration, is on file in the office of the Secretary of the Senate and is available for review at any time.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS BOARD OF REGENTS

January 21, 2011

In accordance with KSA 76-717, the Kansas Board of Regents Report on the Implementation of Qualified Admissions was submitted by Gary Alexander, Vice President of Academic Affairs. The report includes the number and percentage of freshman class admissions, resident transfer student admissions and non-resident transfer student admissions.

The President announced that the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointments, submitted by the Governor to the senate for confirmation, were considered.

Senator Emler moved the following appointments be confirmed as recommended by the Standing Senate Committees:

By the Governor:

On the appointment to the:

Kansas Health Policy Authority:

David Sanford, Member, term expires March 15, 2013.

On roll call, the vote was: Yeas 37, Nays 0, Present and Passing 0, Absent or Not Voting 3.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Lee, Longbine, Love, Lynn, Masterson, McGinn, Merrick, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Marshall, Olson, Schmidt.

The appointment was confirmed.

By the Governor:

On the appointment to the:

State Court of Tax Appeals:

Janis Lee, Chief Hearing Officer, term expires January 15, 2013.

On roll call, the vote was: Yeas 36, Nays 0, Present and Passing 1, Absent or Not Voting 3.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Masterson, McGinn, Merrick, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Present and Passing: Lee.

Absent or Not Voting: Marshall, Olson, Schmidt.

The appointment was confirmed.

On motion of Senator Emler, the Senate adjourned until 2:30 p.m., Tuesday, January 25, 2011.

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

PAT SAVILLE, *Secretary of the Senate.*

