

Journal of the Senate

NINETEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, February 8, 2011, 2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-eight senators present.
Senator Donovan was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

I've prayed about this many times:
The public's view of legislators.
They hear something bad about a few
And assume they all are traitors.

I realize that everyone
May not lump them all together;
But for thirty years I mostly hear
They all are birds of a feather.

Webster says "politicians" means
Someone engaging in government technique.
But he says that derogatively it means
Personal gain is what they seek.

Lord, I believe people have the right to
complain, to criticize and to scoff.
But help us pray more than we complain
So we'll all be better off.

I pray 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 135, AN ACT concerning racketeering; enacting the Kansas racketeer influenced and corrupt organization act; amending K.S.A. 2010 Supp. 60-4104 and section 34 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing sections; also repealing K.S.A. 2010 Supp. 21-3302, by Senators Petersen and Schodorf.

SB 136, AN ACT concerning insurance; relating to the recovery of economic or noneconomic loss sustained as a result of an accident while operating an uninsured motor vehicle, by Committee on Financial Institutions and Insurance.

SB 137, AN ACT concerning the employment security law; relating to unemployment benefits for privately contracted school bus drivers; amending K.S.A. 2010 Supp. 44-706 and repealing the existing section, by Committee on Utilities.

SB 138, AN ACT concerning pharmacy; creating the pharmacy audit integrity act, by Committee on Public Health and Welfare.

SB 139, AN ACT concerning members of regional trauma councils and advisory committee on trauma; amending K.S.A. 2010 Supp. 75-5664 and 75-5665 and repealing the existing sections, by Senator Schmidt.

SB 140, AN ACT enacting the Kansas small and disadvantaged business development program act, by Committee on Commerce.

SB 141, AN ACT concerning the department of health and environment, relating to school-located influenza vaccination programs, by Committee on Public Health and Welfare.

SB 142, AN ACT concerning evidence in civil actions; expressions of apology, sympathy, commiseration or condolence not admissible as evidence of an admission of liability or as evidence of an admission against interest, by Committee on Judiciary.

SB 143, AN ACT concerning postsecondary technical education; creating the postsecondary tiered technical education state aid act; amending K.S.A. 71-601, 71-620, 72-4480 and 72-6503 and repealing the existing sections; also repealing K.S.A. 71-613, 71-613a and 71-1706 and K.S.A. 2010 Supp. 72-4430, 72-4431 and 72-4432, by Committee on Education.

SB 144, AN ACT concerning school districts; relating to transportation of pupils residing within 2½ miles of the school building; amending K.S.A. 72-6411 and K.S.A. 2010 Supp. 72-8302 and repealing the existing sections, by Committee on Education.

SB 145, AN ACT concerning certain crimes; dealing with corrupt political advertising; amending K.S.A. 2010 Supp. 25-4156 and repealing the existing section, by Committee on Ethics and Elections.

SB 146, AN ACT concerning abortion; regarding certain prohibitions on late-term and partial birth abortion; amending K.S.A. 65-445, 65-6701, 65-6703, 65-6705 and 65-6721 and K.S.A. 2010 Supp. 65-6709 and 65-6710 and repealing the existing sections; also repealing K.S.A. 65-6713, by Senators Taddiken, Abrams, Apple, Bruce, Kelsey, Love, Lynn, Marshall, Masterson, Merrick, Olson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Umbarger and Wagle.

SB 147, AN ACT concerning water; relating to the Republican river

compact; disposition of moneys recovered from certain litigation; amending K.S.A. 2010 Supp. 82a-1804 and repealing the existing section, by Committee on Agriculture.

SB 148, AN ACT concerning veterinary medicine; amending K.S.A. 2010 Supp. 47-839 and repealing the existing section, by Committee on Agriculture.

SB 149, AN ACT enacting the Kansas firearms freedom act, by Senators Merrick, Abrams, Bruce, Marshall, Masterson, Olson, Ostmeyer, Petersen and Pilcher-Cook.

SB 150, AN ACT concerning cities; relating to incorporation; amending K.S.A. 15-116, 15-117 and 15-124 and repealing the existing sections, by Committee on Ways and Means.

SB 151, AN ACT concerning the highway advertising control act; amending K.S.A. 2010 Supp. 68-2232, 68-2233 and 68-2234 and repealing the existing sections, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 108**, **SB 109**, **SB 116**.

Commerce: **SB 110**; **ERO 37**.

Education: **SB 111**.

Ethics and Elections: **SB 125**, **SB 126**, **SB 127**, **SB 128**, **SB 129**, **SB 130**.

Federal and State Affairs: **SB 112**.

Judiciary: **SB 104**, **SB 105**, **SB 106**, **SB 107**; **SCR 1603**.

Local Government: **SB 114**.

Natural Resources: **SB 122**, **SB 123**, **SB 124**.

Public Health and Welfare: **SB 117**, **SB 131**, **SB 132**, **SB 133**, **SB 134**.

Transportation: **SB 115**, **SB 119**, **SB 120**.

Ways and Means: **SB 113**, **SB 118**, **SB 121**; **ERO 38**.

REFERRAL OF APPOINTMENTS

The following appointment made by the Governor and submitted to the Senate for confirmation, was referred to Committee as indicated:

Secretary, Kansas Department of Health and Environment:

Robert Moser, to serve effective upon the date of confirmation by the Senate.

(Public Health and Welfare)

MESSAGE FROM THE GOVERNOR

February 8, 2011

To the Senate of the State of Kansas:

Enclosed herewith is Executive Reorganization Order No. 39 and the

Governor's Message for that ERO for your information.

Governor's Message
Executive Reorganization Order No. 39
By Governor Sam Brownback
February 8, 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. 39 to both houses of the Kansas Legislature. Simultaneously with this Order, I am transmitting the accompanying Governor's Message.

As we look to grow Kansas' economy and focus state government resources to ensure the most efficient use of taxpayer dollars, I am ordering the abolition of the Kansas Arts Commission as established by K.S.A. 74-5202, and amendments thereto, and the office of Executive Director of the Commission under K.S.A. 74-5204, and amendments thereto. Per this Executive Reorganization Order, the State Historical Society will succeed to all duties, powers, and functions of the agency. The Historical Society, as a state agency, will still be eligible to receive federal matching funds for the purpose of advancing the arts in the State of Kansas.

My FY2012 Budget Report to the Legislature details how I intend to reorganize these functions of state government. Under my plan, a new not-for-profit corporation, the Kansas Arts Foundation, Inc. will receive a direct grant from the State Historical Society to manage the programs formerly overseen by the Arts Commission. Because of their 501(c)3 status, the Foundation will be able to receive tax-deductible donations to cover the cost of implementing these programs. It is anticipated that this move will save Kansas taxpayers nearly \$600,000 next fiscal year. They will also help the Historical Society in their role as a state agency for the purpose of receiving federal grants by providing logistical and staff support for the drafting of state plans and grant proposals.

As I said in my State-of-the-State speech, the days of ever-expanding government are over. This consolidation is a modest step toward making our economic development structure leaner, more efficient, more accountable, and more successful in growing the state. I look forward to working with the Legislature and my fellow Kansans to achieve these important goals.

Executive Reorganization Order No. 39
By Governor Sam Brownback
Transmitted February 8, 2011

Section 1. The Kansas arts commission created by K.S.A. 74-5202, and amendments thereto, and the office of executive director of the commission under K.S.A. 74-5204, and amendments thereto, are hereby abolished.

Sec. 2. (a) The state historical society, as a state agency, as provided in K.S.A. 75-2701, and amendments thereto, shall be the successor in every way to the powers, duties, and functions of the Kansas arts commission and the

executive director of the commission 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 state historical society shall be performed by existing employees of the state historical society and shall be deemed to have the same force and effect as if performed by the Kansas arts commission or the executive director of the commission in which such powers, duties, and functions were vested prior to the effective date of this order.

(b) Whenever the Kansas arts commission or the executive director of the commission, or words of like effect, are referred to or designated by a statute, contract, or other document, such reference or designation shall be deemed to apply to the state historical society, as a state agency, as provided in K.S.A. 75-2701, and amendments thereto.

(c) All rules and regulations, orders, and directives of the Kansas arts commission or the executive director of the commission, which 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 state historical society, as a state agency, as provided in K.S.A. 75-2701, and amendments thereto, until revised, amended, revoked, or nullified pursuant to law.

Sec. 3. (a) The state historical society, as a state agency, as provided in K.S.A. 75-2701, and amendments thereto, 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 state historical society. Any conflict as to the proper disposition of property, or records arising under this order shall be determined by the governor, whose decision shall be final.

(b) Whenever any statute, contract, deed or other document concerns the power or authority of Kansas arts commission, or the executive director of the commission, to acquire, hold or dispose of real property or any interest therein, the state historical society, as a state agency, as provided in K.S.A. 75-2701, and amendments thereto, shall succeed to such power or authority.

Sec. 4. (a) The balances of all funds or accounts thereof appropriated or reappropriated for the Kansas arts commission relating to the powers, duties, and functions transferred by this order are hereby transferred within the state treasury to the state historical society, as a state agency, as provided in K.S.A. 75-2701, and amendments thereto, 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 employees of the Kansas arts commission during the period commencing on the first day of the first payroll period chargeable to fiscal year 2012 and ending in on June 30, 2011, shall be assumed and paid by the state historical society, as a state agency, as provided in K.S.A. 75-2701, and amendments thereto.

Sec. 5. 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.

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 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. 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 7th day
of February 2011.

BY THE GOVERNOR:
SAM BROWNBACK

KRIS KOBACH
SECRETARY OF STATE

MARY DIANE MINEAR
ASSISTANT SECRETARY OF STATE

February 8, 2011

Message to the Senate of Kansas:

Enclosed herewith is Executive Reorganization Order No. 40 and the Governor's Message for that ERO for your information.

Governor's Message
Executive Reorganization Order No. 40
By Governor Sam Brownback

Pursuant to Article 1, Section 6(b) of the Constitution of the State of Kansas, I am transmitting this day Executive Reorganization Order No. 40 to both houses of the Kansas Legislature. Simultaneously with this Order, I am transmitting the accompanying Governor's Message.

As we look to grow Kansas' economy and focus state government resources to ensure the most efficient use of taxpayer dollars, I am ordering a consolidation of agriculture-related functions spread throughout state government within the Department of Agriculture. These consolidations are as follows:

- 1) The Agriculture Products Development Division within the Department of Commerce as established by K.S.A. 74-50,156, and amendments thereto will be transferred to the Department of Agriculture and renamed the Marketing and Promotions Program.
- 2) The Kansas Animal Health Department and the Livestock Commissioner as established by K.S.A. 75-1901 et seq. will be consolidated within the Department of Agriculture as the Animal Health Division headed by the Animal Health Commissioner. The Animal Health Board will continue in existence and with members appointed by the Governor. The current Livestock Commissioner will be retained as the new Animal Health Commissioner. Thereafter, a vacancy in the position of Animal Health Commissioner will be filled by appointment by the Secretary of Agriculture from three nominations provided by the Animal Health Board.
- 3) The State Conservation Commission as established by K.S.A. 2-1904 will be consolidated within the Department of Agriculture as the Conservation Division. The Conservation Commission will continue in existence. The current Executive Director will be retained as the Executive Director of the Conservation Division. Thereafter, a vacancy in the position of executive director will be filled by a joint selection from the Secretary of Agriculture and the Conservation Commission.

As I said in my State-of-the-State speech, the days of ever-expanding government are over. This consolidation is a significant step toward making our government structure leaner, more efficient, more accountable, and more successful in growing the state. I look forward to working with the Legislature and my fellow Kansans to achieve these important goals.

EXECUTIVE REORGANIZATION ORDER No. 40
By Governor Sam Brownback
Transmitted February 8, 2011

Section 1. (a) There is hereby established, within and as a part of the Kansas department of agriculture, the agriculture marketing and promotions program.

(b) (1) The secretary of agriculture shall appoint such employees as may be needed to carry out the powers and duties of the program, and all such officers and employees shall be within the classified or unclassified service.

(2) All employees shall act for and exercise the powers of the secretary of agriculture to the extent that authority to do so is delegated by the secretary

of agriculture.

Sec. 2. (a) The agriculture products development division within the department of commerce created by K.S.A. 74-50,156, and amendments thereto, is hereby abolished.

(b) Except as otherwise provided by this order, all powers, duties and functions of the agriculture products development division within the department of commerce created by K.S.A. 74-50,156, and amendments thereto, are hereby transferred to and imposed upon the agriculture marketing and promotions program within the Kansas department of agriculture created herein.

Sec. 3. (a) The agriculture marketing and promotions program within the Kansas department of agriculture shall be the successor in every way to the powers, duties and functions of the agriculture products development division within the department of commerce which were in effect prior to the effective date of this order and that are transferred pursuant to section 2. Every act performed in the exercise of such transferred powers, duties and functions by or under the authority of the agriculture marketing and promotions program within the Kansas department of agriculture shall be deemed to have the same force and effect as if performed by the agriculture products development division within the department of commerce in which such powers, duties and functions were in effect prior to the effective date of this order.

(b) Whenever the agriculture products development division or words of like effect are referred to or designated by a statute, contract, or other document and such reference is in regard to any of the powers, duties, or functions transferred to the agriculture products marketing and promotions program such reference or designation shall be deemed to apply to the program or the secretary of agriculture.

(c) All rules and regulations, orders and directives of the agriculture products development division within the department of commerce which relate to the functions transferred by this order and which 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 agriculture marketing and promotions program within the Kansas department of agriculture transferred herein until revised, amended, revoked or nullified pursuant to law.

Sec. 4. (a) The balances of all funds or accounts thereof appropriated or reappropriated for the agriculture products development division within the department of commerce relating to the powers, duties and functions transferred by this order are hereby transferred within the state treasury to the agriculture marketing and promotions program within the Kansas department of agriculture transferred herein and shall be used only for the purpose for which the appropriation was originally made.

(b) Subject to acts of the legislature, all fees, grant funds, and loan repayment funds dedicated to the agriculture products development division within the department of commerce prior to the effective date of this order shall be transferred to the agriculture marketing and promotions program

within the department of agriculture.

(c) Liability for all accrued compensation or salaries of officers and employees who are transferred from the agriculture products development division within the department of commerce under this order shall be assumed and paid by the agriculture marketing and promotions program within the Kansas department of agriculture.

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 agriculture marketing and promotions program within the Kansas department of agriculture 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. 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 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. 7. (a) The secretary of agriculture shall determine such employees as are necessary to enable the secretary to carry out the duties of the agriculture marketing and promotions program. All officers and employees of the agriculture products development division within 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, who are determined by the secretary of agriculture 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 agriculture marketing and promotions program within the Kansas department of agriculture. All classified employees so transferred shall retain their status as classified employees. Thereafter, the secretary of agriculture may convert vacant classified positions to positions in the unclassified service under the Kansas civil service act.

(b) Officers and employees of the agriculture products development division within 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 and 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 agriculture products development division of the department of commerce prior to the date of transfer.

Sec. 8. (a) The division of animal health is hereby established within the Kansas department of agriculture. The division of animal health shall be a continuation of the Kansas animal health department and the animal health commissioner shall be a continuation of the livestock commissioner of the Kansas animal health department. The division shall be administered under the supervision of the secretary of agriculture, by the animal health commissioner, who shall be the chief administrative officer of the division. On the effective date of this order, the Secretary of Agriculture shall appoint the animal health commissioner. Thereafter, upon a vacancy in the office of animal health commissioner, the Kansas animal health board shall submit three nominations to the secretary of agriculture for the office of animal health commissioner, and the secretary of agriculture shall choose one of the three nominations to appoint as the animal health commissioner. The animal health commissioner shall serve at the pleasure of the secretary and the animal health board. The animal health commissioner shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of agriculture, with the approval of the governor.

(b) All of the powers, duties and functions of the existing Kansas animal health department and the existing livestock commissioner of the Kansas animal health department are hereby transferred to and imposed upon the animal health division within the Kansas department of agriculture and the animal health commissioner, respectively.

(c) The secretary of agriculture shall appoint such employees as may be needed to carry out the powers and duties of the program, and all such officers and employees shall be within the classified or unclassified service.

Sec. 9. The Kansas animal health department and the office of livestock commissioner as established by K.S.A. 75-1901, and amendments thereto, are hereby abolished.

Sec. 10. (a) The animal health commissioner of the Kansas department of agriculture shall be the successor in every way to the powers, duties and functions of the Kansas animal health department and the livestock commissioner of the Kansas animal health department 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 secretary of agriculture shall be deemed to have the same force and effect as if performed by the Kansas animal health department and the livestock commissioner of the Kansas animal health department in which such powers, duties and functions were vested prior to the effective date of this order.

(b) Whenever the Kansas animal health department or the livestock commissioner of the Kansas animal health department, 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 animal health division of the Kansas department of agriculture or the animal health commissioner under the secretary of agriculture.

(c) All rules and regulations, orders and directives of the livestock commissioner of the Kansas animal health department 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 animal health division of the Kansas department of agriculture until revised, amended, revoked or nullified pursuant to law, by the secretary of agriculture.

(d) Before any proposed rules and regulations of the animal health commissioner of the division of animal health of the department of agriculture are submitted to the secretary of administration or the attorney general pursuant to K.S.A. 77-420, and amendments thereto:

(1) The animal health commissioner shall submit such rules and regulations to the animal health board; and

(2) the animal health board shall review and make recommendations to the animal health commissioner and the secretary of agriculture regarding such proposed rules and regulations.

Sec. 11. (a) The Kansas animal health board, created by K.S.A. 74-4001, and amendments thereto, is hereby continued in existence within the animal health division of the department of agriculture with respect to powers, duties and functions of the Kansas animal health department that are transferred under this order. Persons who are members of the Kansas animal health board on the effective date of this order shall continue to hold such offices under the conditions and limitations provided under K.S.A. 74-4001, and amendments thereto.

(b) The Kansas pet animal advisory board, created by K.S.A. 47-1725, and amendments thereto, is hereby continued in existence within the animal health division of the department of agriculture with respect to powers, duties and functions of the Kansas animal health department that are transferred under this order. Persons who are members of the Kansas pet animal advisory board on the effective date of this order shall continue to hold such offices under the conditions and limitations provided under K.S.A. 47-1725, and amendments thereto.

Sec. 12. The Kansas department of agriculture shall succeed to all property, property rights and records of the Kansas animal health department and the livestock commissioner of the Kansas animal health department.

Sec. 13. (a) On the effective date of this order, the balances of all funds or accounts thereof appropriated or reappropriated for the Kansas animal health department are hereby transferred within the state treasury to the Kansas department of agriculture and shall be used only for the purpose for which the appropriation was originally made.

(b) Subject to acts of the legislature, all fees and grant funds dedicated to animal health programs shall remain dedicated to animal health programs on and after the effective date of this order.

Sec. 14. (a) (1) The secretary of agriculture in consultation with the animal health commissioner shall determine such employees as are necessary to enable the secretary to carry out the duties of the animal health division. The livestock commissioner of the animal health department shall become the animal health commissioner of the animal health division of the Kansas department of agriculture on the effective date of this order. All other officers and employees of the Kansas animal health department who, immediately prior to such date, were engaged in the performance of powers, duties and functions for the Kansas animal health department and who are, in the opinion of the secretary of agriculture in consultation with the animal health commissioner, necessary to perform the powers, duties and functions of the Kansas animal health department that are transferred under this order, shall become officers and employees of the department of agriculture and are hereby transferred to the Kansas department of agriculture on the effective date of this order.

(2) All classified employees transferred under this subsection (a) shall retain their status as classified employees. Thereafter, the secretary of agriculture may convert vacant classified positions to positions in the unclassified service under the Kansas civil service act.

(b) Officers and employees of the Kansas animal health department transferred under this order shall retain all retirement benefits and leave balances and rights that had accrued or vested prior to the date of transfer. The service of each such officer and 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 animal health department prior to the date of transfer.

(c) Liability for accrued compensation or salaries of each officer and employee who is transferred from the Kansas animal health department to the Kansas department of agriculture under this order shall be assumed and paid by the Kansas department of agriculture on the effective date of this order.

Sec. 15. (a) On the effective date of this order, the division of conservation is hereby established within the Kansas department of agriculture. The division of conservation shall be a continuation of the state conservation commission and the executive director of conservation shall be a continuation of the executive director of the state conservation commission. The division shall be administered under the supervision of the secretary of agriculture by the executive director of the division of conservation, who shall be the chief administrative officer of the division. The executive director of the division of conservation shall be jointly appointed by the secretary of agriculture and the state conservation commission and shall serve at the pleasure of the secretary and the state conservation commission. The executive director of the division of conservation shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of agriculture, with the approval of the governor.

(b) All of the powers, duties and functions of the existing state conservation commission and the existing executive director of the state conservation commission are hereby transferred to and imposed upon the conservation division of the Kansas department of agriculture and the executive director of the conservation division, respectively.

Sec. 16. (a) The conservation division of the department of agriculture shall be the successor in every way to the powers, duties and functions of the state conservation commission and the executive director of the state conservation commission 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 secretary of agriculture shall be deemed to have the same force and effect as if performed by the state conservation commission and the executive director of the state conservation commission in which such powers, duties and functions were vested prior to the effective date of this order.

(b) Whenever the state conservation commission or the executive director of the state conservation commission, 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 conservation division within the department of agriculture or the executive director of the conservation division under the secretary of agriculture.

(c) All rules and regulations, orders and directives of the state conservation commission or the executive director of the state conservation commission 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 conservation division of the Kansas department of agriculture until revised, amended, revoked or nullified pursuant to law by the secretary of agriculture.

Sec. 17. The state conservation commission established by K.S.A. 2-1904, and amendments thereto, is hereby continued in existence within the conservation division within the department of agriculture with respect to the powers, duties and functions of the state conservation commission that are transferred under this order. Persons who are members of the board shall continue to hold such offices under the conditions and limitations in effect on the effective date of this order.

Sec. 18. The Kansas department of agriculture shall succeed to all property, property rights and records of the state conservation commission and the executive director of the state conservation commission.

Sec. 19. (a) On the effective date of this order, the balances of all funds or accounts thereof appropriated or reappropriated for the state conservation commission are hereby transferred within the state treasury to the Kansas department of agriculture and shall be used only for the purpose for which the appropriation was originally made.

(b) Subject to acts of the legislature, all fees and grant funds dedicated to conservation programs shall remain dedicated to conservation programs on and after the effective date of this order.

Sec. 20. (a) (1) The executive director of the conservation commission shall become the executive director of the conservation division of the Kansas department of agriculture on the effective date of this order. All other officers and employees of the state conservation commission who, immediately prior to such date, were engaged in the performance of powers, duties and functions for the state conservation commission and who are, in the opinion of the secretary of agriculture in consultation with the executive director, necessary to perform the powers, duties and functions of the state conservation commission that are transferred under this order, shall become officers and employees of the department of agriculture and are hereby transferred to the Kansas department of agriculture on the effective date of this order.

(2) The secretary of agriculture in consultation with the executive director shall determine such officers and employees as are necessary to enable the secretary to carry out the duties of the division of conservation.

(3) All classified employees transferred under this subsection (a) shall retain their status as classified employees. Thereafter, the secretary of agriculture may convert vacant classified positions to positions in the unclassified service under the Kansas civil service act.

(b) Officers and employees of the state conservation commission transferred by this order shall retain all retirement benefits and leave balances and rights that had accrued or vested prior to the date of transfer. The service of each such officer and 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 state conservation commission prior to the date of transfer.

(c) Liability for accrued compensation or salaries of each officer and employee who is transferred to the Kansas department of agriculture under this order shall be assumed and paid by the Kansas department of agriculture on the effective date of this order.

Sec. 21. (a) No suit, action, or other proceeding, judicial or administrative, that is lawfully commenced or that could have been lawfully 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 capacity or in relation to the discharge of 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 that is commenced or that could have been commenced by the state shall abate by the taking effect of this order.

Sec. 22. 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 7th day
of February 2011.

BY THE GOVERNOR
SAM BROWNBACK

KRIS KOBACH
SECRETARY OF STATE

MARY DIANE MINEAR
ASSISTANT SECRETARY OF STATE

COMMUNICATIONS FROM STATE OFFICERS

DEPARTMENT OF COMMERCE

February 7, 2011

In accordance with KSA 12-17,169(c), Pat George, Secretary of Commerce, submitted the annual report for projects funded with special obligation bond or STAR bonds.

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

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Steineger introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. SR 1811—

A RESOLUTION to create the Kansan-Turkish Friendship Network.

WHEREAS, The Republic of Turkey is a democratic, secular, unitary, constitutional republic; and

WHEREAS, The Republic of Turkey and the United States of America are long-standing allies. Both nations cherish freedom, democracy and human rights; and

WHEREAS, In its alliances with the United States, the Republic of Turkey has demonstrated its commitment to world peace and liberty, as well as its tolerance of others in secular and religious venues; and

WHEREAS, The Republic of Turkey has a very diverse culture. It blends elements of the Oğuz Turkic, Anatolian, Ottoman and western cultures and traditions, which began with the westernization of the Ottoman State and continues today; and

WHEREAS, The Republic of Turkey was a founding member of the United Nations; and

WHEREAS, The architecture and archaeological riches of the Republic of Turkey are known worldwide; and

WHEREAS, The Republic of Turkey has one of the world's fastest growing economies. It is the world's 15th largest economy and Europe's sixth largest economy. It is to be commended on its contributions to the global economy; and

WHEREAS, It is in the best interest of the state of Kansas to further cultivate the good relationship between Kansas, the Republic of Turkey and other Turkic Nations; and

WHEREAS, It is beneficial to the state of Kansas to value the positive relationships with the allies of the state and to acknowledge their contributions. We recognize the value of our positive relationship with the Republic of Turkey and the importance of the contributions made by this ally: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That in pursuit of this noble goal, we create the Kansan-Turkish Friendship Network. The purpose of this bipartisan leadership network is to focus on Kansan-Turkish relations and issues that concern Turkish Americans in Kansas, as well as promote the cultural, educational, academic, political and economic relations between Kansans and the Turkish people by coordinating hospitality, cultural and educational events and exchanges to facilitate and strengthen the development of those relationships.

Be it further resolved: That the Secretary of the Senate shall send five enrolled copies of this resolution to Senator Steineger.

On emergency motion of Senator Steineger **SR 1811** was adopted unanimously.

Senator Steineger introduced the following guests representing the Kansan-Turkish Friendship Network: Fehmi Husrev Kutlu, Fatos Gurkan and Dr. Mithat Ekiei. The Senate welcomed them with a standing ovation.

REPORTS OF STANDING COMMITTEES

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

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

By the Governor:

Secretary of Transportation:

Deb Miller, serves at the pleasure of the Governor

REPORT ON ENGROSSED BILLS

SB 25 reported correctly engrossed February 8, 2011.

COMMITTEE OF THE WHOLE

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

On motion of Senator Petersen the following report was adopted:

Recommended **SB 11**, **SB 21**, **SB 35**, **SB 38** be passed.

On motion of Senator Emler, the Senate adjourned until 2:30 p.m., Wednesday, February 9, 2011.

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

PAT SAVILLE, *Secretary of the Senate.*

