

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

Held in Room 423-S, at the Statehouse at 10:00 a.m. a. m./p. m.,

on Tuesday, January 27, 1981, 19    .

All members were present except: Senator Ross Doyen (Excused)

The next meeting of the Committee will be held at 10:00 a.m. a. m./p. m.,

on Wednesday, January 28, 1981, 19    .

These minutes of the meeting held on Tuesday, January 27, 1981, 19     were considered, corrected and approved.

  
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Chairman

The conferees appearing before the Committee were:

Bill Duitsman, Secretary of Agriculture  
Guy Gibson, Chief Engineer, Division of Water Resources

Senator Kerr called the meeting to order. He briefed the committee on future meetings this week and mentioned it was his intention to not introduce any legislation until sometime after February 6 when the farm corporate case will be heard.

Bill Duitsman, Secretary of Agriculture, was introduced and presented background information on his department.

Senator Norvell questioned whether it will be possible to operate the Agriculture Department on the budget of \$5.6 million which is in the general appropriations for next year. Mr. Duitsman indicated they have two items that they need to increase. They have pruned 11 positions but do need some increases in the meat and poultry and milk inspection divisions.

In answer to Senator Warren's inquiry relating to scale testing, Mr. Duitsman said that needs to be relocated with better facilities available in order to meet specific requirements.

Mr. Gibson presented a quick overview of his current activities as Chief Engineer stating they were accountable for 26 laws including channel changes, water rights, bank lines, watershed districts, ground water and irrigation districts; and are involved in four water compacts with Colorado, Oklahoma and Nebraska. They operate under the Water Appropriations Act of 1945. Vested rights for water and the domestic right regarding water come under their jurisdiction.

Senator Kerr stated opponents and proponents of the Executive Reorganization Order No. 18 are being heard by the Energy and Natural Resources Committee but he felt members of the Agriculture Committee should have some background relative to this Order before it comes before the Senate. If the Order is not rejected within 60 days it then becomes a law. Mr. Duitsman and Mr. Gibson, in answer to an inquiry, stated if the Order became law it would abolish the Water Resources Division of the State Board of Agriculture and there would not be a chief engineer position; all authority would go to the director of such water resources authority as proposed by the Governor.

Senator Gannon moved, and Senator Karr seconded, that the minutes of the January 22, 1981, meeting be approved as written.

Meeting adjourned.

Director of H<sub>2</sub>O Resources - aptd  
Deputy " for H<sub>2</sub>O Resources Planning

(REPRINT)

Session of 1981

## Executive Reorganization Order No. 18

By Governor John Carlin

Transmitted January 13, 1981

0017 Section 1. In order to consolidate and coordinate the admin-  
0018 istration, planning and regulation of the state's water resources,  
0019 there is hereby established within the executive branch of gov-  
0020 ernment the **Kansas water resources authority, which shall be**  
0021 **administered under the direction and supervision of a director of**  
0022 **water resources who shall be appointed by the governor, with the**  
0023 consent of the senate, and who shall serve at the pleasure of the  
0024 governor. The director of water resources shall be in the unclas-  
0025 sified service under the Kansas civil service act and shall receive  
0026 an annual salary to be fixed by the governor. The Kansas water  
0027 resources authority shall be the sole state agency concerned with  
0028 future public water supply planning, development, administra-  
0029 tion and regulation.

0030 Sec. 2. There is hereby established within and as a part of the  
0031 Kansas water resources authority a **division of water resource**  
0032 **planning, the head of which shall be the deputy director for water**  
0033 **resource planning.** Under the supervision of the director of water  
0034 resources, the deputy director shall administer the division of  
0035 water resource planning. The deputy director for water resource  
0036 planning shall be appointed by the director of water resources  
0037 and shall be in the classified service under the Kansas civil  
0038 service act.

0039 Sec. 3. (a) On July 1, 1981, the state water resources board  
0040 created by K.S.A. 74-2605, and the office of executive director of  
0041 the state water resources board created by K.S.A. 74-2607, are  
0042 hereby abolished.

0043 (b) All of the powers, duties and functions of the existing state  
0044 water resources board and the existing executive director of the

state water resources board are hereby transferred to and conferred and imposed upon, respectively, the Kansas water resources authority and the director of water resources established by this order.

(c) The Kansas water resources authority and the director of water resources established by this order shall be the successor in every way, respectively, to the powers, duties and functions of the state water resources board and the executive director of the state water resources board 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 water resources authority or director of water resources established by this order, respectively, shall be deemed to have the same force and effect as if performed by the state water resources board or the executive director of the state water resources board, respectively, in which such powers, duties and functions were vested prior to the effective date of this order.

(d) Whenever the state water resources board, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the Kansas water resources authority established by this order.

(e) Whenever the executive director of the state water resources board, or words of like effect, is referred to or designated by a statute, contract or other document, such reference shall be deemed to apply to the director of water resources established by this order.

(f) All rules and regulations of the state water resources board or the executive director of the state water resources board in existence on the effective date of this order shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the director of water resources established by this order until revised, amended, revoked or nullified pursuant to law. The director of water resources may adopt rules and regulations governing the administration of the division of water resource planning.

(g) All orders and directives of the state water resources board

0082 or the executive director of the state water resources board in  
0083 existence on the effective date of this order shall continue to be  
0084 effective and shall be deemed to be orders and directives of the  
0085 Kansas water resources authority and director of water resources  
0086 established by this order, respectively, until revised, amended or  
0087 nullified pursuant to law.

0088 (h) On the effective date of this order, the director of water  
0089 resources shall succeed to whatever right, title or interest the state  
0090 water resources board has acquired in any real property in this  
0091 state, and said director shall hold the same for and in the name of  
0092 the state of Kansas. On and after the effective date of this order,  
0093 whenever any statute, contract, deed or other document concerns  
0094 the power or authority of the state water resources board to  
0095 acquire, hold or dispose of real property or any interest therein,  
0096 the director of water resources shall succeed to such power or  
0097 authority.

0098 (i) The Kansas water resources authority and the director of  
0099 water resources established by this order, respectively, shall be  
0100 continuations of the state water resources board and the executive  
0101 director of the state water resources board.

0102 Sec. 4. There is hereby established within and as a part of the  
0103 Kansas water resources authority a division of water resource  
0104 administration and regulation, the head of which shall be the  
0105 deputy director for water resource administration and regulation.  
0106 Under the supervision of the director of water resources, the  
0107 deputy director shall administer the division of water resource  
0108 administration and regulation. The deputy director for water  
0109 resource administration and regulation shall be appointed by the  
0110 director of water resources and shall be in the classified service  
0111 under the Kansas civil service act.

0112 Sec. 5. (a) On July 1, 1981, the division of water resources of  
0113 the state board of agriculture created by K.S.A. 74-506a, and the  
0114 office of the chief engineer of the division of water resources of  
0115 the state board of agriculture created by K.S.A. 74-506d, are  
0116 hereby abolished.

0117 (b) All of the powers, duties and functions of the existing  
0118 division of water resources of the state board of agriculture and

the existing office of the chief engineer of the division of water resources of the state board of agriculture are hereby transferred to and conferred and imposed upon, respectively, the Kansas water resources authority and the director of water resources established by this order.

(c) The Kansas water resources authority and the director of water resources shall be the successors in every way, respectively, to the powers, duties and functions of the division of water resources of the state board of agriculture and the chief engineer of the division of water resources of the state board of agriculture 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 water resources authority or director of water resources established by this order, respectively, shall be deemed to have the same force and effect as if performed by the division of water resources of the state board of agriculture or the chief engineer of the division of water resources of the state board of agriculture in which such powers, duties and functions were vested prior to the effective date of this order.

(d) Whenever the division of water resources of the state board of agriculture, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the Kansas water resources authority established by this order.

(e) Whenever the chief engineer of the division of water resources of the state board of agriculture, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the director of water resources established by this order.

(f) All rules and regulations of the chief engineer of the division of water resources of the state board of agriculture in existence on the effective date of this order shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the director of water resources established by this order until revised, amended, revoked or nullified pursuant to law. The director of water resources may adopt rules and regula-

0156 tions governing the administration of the division of water re-  
0157 source administration and regulation.

0158 (g) All orders and directives of the chief engineer of the  
0159 division of water resources of the state board of agriculture in  
0160 existence on the effective date of this order shall continue to be  
0161 effective and shall be deemed to be orders and directives of the  
0162 director of water resources established by this order until revised,  
0163 amended or nullified pursuant to law.

0164 (h) On the effective date of this order, the director of water  
0165 resources shall succeed to whatever right, title or interest the  
0166 chief engineer of the division of water resources of the state board  
0167 of agriculture has acquired in any real property in this state, and  
0168 said director shall hold the same for and in the name of the state  
0169 of Kansas. On and after the effective date of this order, whenever  
0170 any statute, contract, deed or other document concerns the power  
0171 or authority of the chief engineer of the division of water re-  
0172 sources of the state board of agriculture to acquire, hold or  
0173 dispose of real property or any interest therein, the director of  
0174 water resources shall succeed to such power and authority.

0175 (i) The Kansas water resources authority and director of water  
0176 resources established by this order, respectively, shall be contin-  
0177 uations of the division of water resources of the state board of  
0178 agriculture and the chief engineer of the division of water re-  
0179 sources of the state board of agriculture.

0180 Sec. 6. (a) On July 1, 1981, all of the powers and duties of the  
0181 department of health and environment and the secretary of health  
0182 and environment relating to water quantity supply and planning  
0183 functions are hereby transferred to and conferred and imposed  
0184 upon, respectively, the Kansas water resources authority and the  
0185 director of water resources established by this order.

0186 (b) The Kansas water resources authority and the director of  
0187 water resources shall be the successor in every way, respectively,  
0188 to the powers and duties of the department of health and envi-  
0189 ronment and the secretary of health and environment relating to  
0190 water quantity supply and planning functions in which the same  
0191 were vested prior to the effective date of this order. Every act  
0192 performed in the exercise of such powers, duties and functions by

or under the authority of the Kansas water resources authority or the director of water resources shall be deemed to have the same force and effect as if performed by the department of health and environment or the secretary of health and environment, respectively, in which such powers and duties were vested prior to the effective date of this order.

(c) Whenever the department of health and environment, or words of like effect, is referred to or designated by a statute, contract or other document in relation to water quantity supply and planning functions, such reference shall be deemed to apply to the Kansas water resources authority established by this order.

(d) Whenever the secretary of health and environment, or words of like effect, is referred to or designated by a statute, contract or other document in relation to water quantity supply and planning functions, such reference shall be deemed to apply to the director of water resources established by this order.

(e) All rules and regulations of the department of health and environment relating to water quantity supply and planning functions in existence on the effective date of this order shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the director of water resources established by this order until revised, amended, revoked or nullified pursuant to law. The director of water resources may adopt rules and regulations relating to water quantity supply and planning.

(f) All orders and directives of the department of health and environment or the secretary of health and environment relating to water quantity supply and planning functions in existence on the effective date of this order shall continue to be effective and shall be deemed to be orders and directives of the Kansas water resources authority and the director of water resources established by this order, respectively, until revised, amended or nullified pursuant to law.

(g) On the effective date of this order, the director of water resources shall succeed to whatever right, title or interest the department of health and environment or the secretary of health and environment has acquired in any real property in this state relating to water supply and planning functions, and said director

0230 shall hold the same for and in the name of the state of Kansas. On  
0231 and after the effective date of this order, whenever any statute,  
0232 contract, deed or other document concerns the power or authority  
0233 of the department of health and environment or the secretary of  
0234 health and environment to acquire, hold or dispose of real prop-  
0235 erty or any interest therein relating to water quantity supply and  
0236 planning functions, the director of water resources shall succeed  
0237 to such power or authority.

0238 (h) The Kansas water resources authority and the director of  
0239 water resources established by this order, respectively, shall be  
0240 continuations of the water quantity supply and planning func-  
0241 tions of the department of health and environment and of the  
0242 secretary of health and environment.

0243 Sec. 7. (a) There is hereby established an advisory board on  
0244 water resources which shall be advisory to and consult with the  
0245 director of water resources. The advisory board on water re-  
0246 sources shall consist of seven members who shall be appointed  
0247 by the governor. In making such appointments, the governor  
0248 shall appoint a resident of each congressional district of the state  
0249 as a member, and shall also appoint two members from the state  
0250 at large who shall not be residents of the same congressional  
0251 district, and one of the members appointed from the state at large  
0252 shall be an attorney admitted to practice law in the state of  
0253 Kansas.

0254 (b) The members of the advisory board on water resources  
0255 shall serve a term of four years and until their successors are  
0256 appointed and qualified, except that the term of office of the  
0257 members appointed to the first board shall be as follows: Two  
0258 members shall be appointed for terms of one year, two members  
0259 shall be appointed for terms of two years, one member shall be  
0260 appointed for a term of three years and two members shall be  
0261 appointed for terms of four years. The governor shall designate  
0262 the term of office for each member appointed to the first board.  
0263 Upon the expiration of said terms of office, successors shall be  
0264 appointed in the same manner as the original appointments for  
0265 terms of four years. Any vacancy occurring in the membership of  
0266 the board shall be filled in the same manner as the original

appointment for the remainder of the unexpired term.

(c) The advisory board on water resources shall elect annually a chairperson from its own membership. The board shall hold at least four regular meetings each year and such additional meetings as the chairperson deems desirable, at a place and time to be fixed by the chairperson within the state of Kansas. Special meetings shall be called by the chairperson upon request of the director of water resources. Four members of the board shall constitute a quorum to transact its business.

(d) The advisory board on water resources shall consult with and advise the director of water resources on matters relating to the management, conservation and development of the state's water resources and such other matters as the director may request or as may be prescribed by law.

(e) The members of the advisory board on water resources attending regular or special meetings thereof shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto.

Sec. 8. (a) The director of water resources may organize the Kansas water resources authority in the manner deemed most efficient, so long as the same is not in conflict with law. Division heads shall perform such duties and exercise such powers as the director of water resources may prescribe and such duties and powers as are prescribed by law. Division heads shall act for, and exercise the powers of, the director of water resources to the extent authority to do so is delegated by the director to the division head. Personnel of each division shall perform such duties and exercise such powers as the head of the division may prescribe and such duties and powers as are prescribed by law. Personnel of each division shall act for and exercise the powers of their division head to the extent authority to do so is delegated by the division head.

(b) The director of water resources shall appoint all subordinate officers and employees of the Kansas water resources authority. All subordinate officers and employees shall be within the classified service under the Kansas civil service act, except that any person appointed as an attorney shall be within the

0304 unclassified service under the Kansas civil service act.

0305 Sec. 9. On July 1, 1981, officers and employees who, immediately prior to said date, were engaged in the performance of 0306 powers, duties or functions which are transferred pursuant to the 0307 provisions of this order, and who, in the opinion of the director of 0308 water resources, are necessary to perform the powers, duties and 0309 functions of the Kansas water resources authority, shall be transferred to, and shall become officers and employees of said authority. Any such officer or employee shall retain all retirement 0310 benefits and all rights of civil service which had accrued to or 0311 vested in such officer or employee prior to the effective date of 0312 this order. The service of each such officer or employee so 0313 transferred shall be deemed to have been continuous. All 0314 transfers and any abolishments of personnel in the classified 0315 service under the Kansas civil service act shall be in accordance 0316 with civil service laws and any rules and regulations adopted 0317 thereunder. 0318 0319 0320

0321 Sec. 10. (a) On and after the effective date of this order, when 0322 any conflict arises as to the disposition of any power, duty or 0323 function or the unexpended balance of any appropriation as a 0324 result of any transfer made by this order, or under the authority of 0325 this order, such conflict shall be resolved by the governor, and the 0326 decision of the governor shall be final.

0327 (b) In all cases under the provisions of this order where part 0328 or all of the powers, duties and functions of any state agency are 0329 divided between the Kansas water resources authority and any 0330 other state agency, the Kansas water resources authority shall 0331 succeed to all property and records which were used for or 0332 pertain to the performance of the powers, duties and functions 0333 transferred to the Kansas water resources authority. Any conflict 0334 as to the proper disposition of property or records arising under 0335 this section, and resulting from the transfer, attachment or abolition of any state agency, or all or part of the powers, duties and 0336 functions thereof, shall be determined by the governor, and the 0337 decision of the governor shall be final. 0338

0339 Sec. 11. Except as otherwise provided in this order, the director of water resources shall have the legal custody of all 0340

0341 records, memoranda, writings, entries, prints, representations or  
0342 combinations thereof of any act, transaction, occurrence or event  
0343 of the Kansas water resources authority and any agency or offices  
0344 abolished or transferred under this order.

0345 Sec. 12. (a) On July 1, 1981, the balance of all funds appro-  
0346 priated and reappropriated to any of the state agencies or offices  
0347 abolished by this order is hereby transferred to the Kansas water  
0348 resources authority and shall be used only for the purposes for  
0349 which the appropriation was originally made.

0350 (b) On July 1, 1981, liability for all accrued compensation or  
0351 salaries of officers and employees who, immediately prior to said  
0352 date, were engaged in the performance of powers, duties or  
0353 functions of any state agency or office abolished or transferred by  
0354 this order shall be assumed and paid by the Kansas water re-  
0355 sources authority established by this order.

0356 Sec. 13. (a) No suit, action or other proceeding, judicial or  
0357 administrative, lawfully commenced, by or against any state  
0358 agency mentioned in this order, or by or against any officer of the  
0359 state in such officer's official capacity or in relation to the  
0360 discharge of such officer's official duties, shall abate by reason of  
0361 the governmental reorganization effected under the provisions of  
0362 this order. The court may allow any such suit, action or proceed-  
0363 ing to be maintained by or against the successor of any such state  
0364 agency or any officer affected.

0365 (b) No criminal action commenced or which could have been  
0366 commenced by the state shall abate by the taking effect of this  
0367 order.

0368 Sec. 14. All of the provisions of this order shall take effect  
0369 and have the force of general law on July 1, 1981, unless disap-  
0370 proved by either house of the legislature as provided by subsec-  
0371 tion (c) of section 6 of article 1 of the constitution of Kansas, and  
0372 unless so disapproved, this order is to be published as and with  
0373 the acts of the legislature and the statutes of this state.

0374 Done At the Capitol in Topeka Under the Great Seal of the  
0375 State of Kansas, this 13th day of January, 1981.

0376

0377 [SEAL]

By the Governor  
John Carlin

