

Journal of the Senate

ELEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, January 25, 2011, 2:30 p.m.

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

Heavenly Father,

There's an old hymn that goes like this:

“Count your blessings
Name them one by one,
And it will surprise you
What the Lord has done.”

Lord, I have discovered
This old hymn is true,
And marveled at the blessings
That have come from You.

Help us to stop dwelling
On our problems every day,
And thank You for the blessings
You have sent our way.

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 51, AN ACT concerning school districts; relating to the dispensing of medication, by Senator Faust-Goudeau.

SB 52, AN ACT concerning children and minors; relating to grandparent's

custody of children; amending K.S.A. 2010 Supp. 38-2241 and repealing the existing section, by Committee on Federal and State Affairs.

SB 53, AN ACT concerning the Kansas act against discrimination; relating to sexual orientation and gender identity; amending K.S.A. 44-1001, 44-1002, 44-1004, 44-1006, 44-1009, 44-1015, 44-1016, 44-1017, 44-1027 and 44-1030 and K.S.A. 2010 Supp. 44-1005 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 54, AN ACT concerning alcoholic beverages; relating to retailer's licenses under the Kansas liquor control act; amending K.S.A. 41-304 and 41-713 and K.S.A. 2010 Supp. 41-102, 41-301, 41-303, 41-310, 41-311, 41-313, 41-317, 41-326 and 79-4108 and repealing the existing sections; also repealing K.S.A. 41-103, 41-308 and 41-711, by Committee on Federal and State Affairs.

SB 55, AN ACT concerning crimes and punishment; relating to harassment by telecommunication device; amending section 184 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing section, by Committee on Judiciary.

SB 56, AN ACT concerning crimes and punishment; relating to criminal sodomy; amending section 68 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing section; also repealing K.S.A. 2010 Supp. 21-3506, by Committee on Judiciary.

SB 57, AN ACT concerning school districts; relating to the calculation of the local option budget; amending K.S.A. 2010 Supp. 72-6433d and repealing the existing section, by Committee on Ways and Means.

SB 58, AN ACT designating the junction of United States highway 24 and K-7 highway as the Representative Margaret Long interchange, by Committee on Transportation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and ERO were referred to Committees as indicated:

Judiciary: **SB 44**, **SB 45**, **SB 46**, **SB 47**, **SB 48**; **ERO 34**.

KPERS Select: **SB 49**.

Utilities: **SB 50**.

MESSAGES FROM THE GOVERNOR

January 25, 2011

Message to the Senate of State of Kansas:

Enclosed herewith is Executive Reorganization Order No. 35 and the Governor's Message for that ERO for your information.

Governor's Message
Executive Reorganization Order No. 35
By Governor Sam Brownback
January 25, 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. 35 to both houses of the Kansas Legislature. Simultaneously with this Order, I am transmitting the accompanying Governor's Message.

Our state has a long tradition of promoting full and equal citizenship for all Kansans with disabilities. First established in 1949 as the Governor's Committee on Employment of the Physically Handicapped, the Kansas Commission on Disability Concerns works to ensure that Kansans with disabilities have equal access to employment opportunities and a living environment of their choice. It partners with state, federal, and local governments as well as businesses, labor, private citizens, and non-profit organizations to enhance the employment opportunities and quality of life of all Kansans who are disabled.

It is important that those who advocate on behalf of disabled Kansans have direct access to the Governor's office so that the community's concerns are addressed and solutions to their challenges acted upon. This is why I am ordering the transfer of the Kansas Commission on Disability Concerns as established by K.S.A. 74-6701 *et seq.* from the Department of Commerce to the Office of the Governor.

I look forward to working with the Legislature and the disabled community in the months and years to come as we work to ensure that all Kansans have equal access to the quality of life that we all have come to appreciate in this state we call home.

Executive Reorganization Order No. 35
By Governor Sam Brownback
Transmitted January 25, 2011

Section 1. The commission on disability concerns is hereby transferred from the department of commerce to the office of governor and shall be a part thereof. The commission shall be advisory to the governor. The governor shall appoint an executive director of the commission. The office of governor shall provide office space and such clerical and other personnel as may be necessary for the efficient performance of the commission.

Sec. 2. Except as otherwise provided by this order, all powers, duties, and functions of the commission on disability concerns under K.S.A. 74-6701 *et seq.* and amendments thereto are hereby transferred to and imposed upon the commission.

Sec. 3. (a) The commission shall be the successor in every way to the powers, duties, and functions of the commission in which the same were vested 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 commission shall be deemed to have the same force and effect as if performed by the commission in which such powers, duties, and functions were vested prior to the effective date of this order.

(b) Whenever the commission 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 office of governor, such reference or designation shall be deemed to apply to the commission attached to the office of governor.

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

Sec. 4. (a) The balances of all funds or accounts thereof appropriated or re appropriated for the commission relating to the powers, duties, and functions transferred by this order are hereby transferred within the state treasury to the office of governor 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 commission under this order shall be assumed and paid by the commission attached to the office of governor.

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 division of health care finance in the department of health and environment 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 health care finance in the department of health and environment. 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) All officers and employees of the commission 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 commission who are determined by the commission and the director of health care finance in the department of health and environment 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 health care finance in the department of health and environment. All classified employees so transferred shall retain their status as classified employees.

(b) Officers and employees of the commission 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 commission prior to the date of transfer.

Sec. 8. 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 IN Topeka
Under the Great Seal of the
State of Kansas this 24th
day of January 2011.

BY THE GOVERNOR
SAM BROWNBECK

KRIS W. KOBACH
SECRETARY OF STATE

ERIC RUCKER
*ASSISTANT SECRETARY OF
STATE*

COMMUNICATIONS FROM STATE OFFICERS

January 10, 2011

In accordance with **House Substitute for Senate Bill 475** and the omnibus appropriation bill, **HB 2968**, both enacted in the 2006 session of the Kansas Legislature, Regional Economic Area Partnership (REAP) submitted the report on the expenditures of the state annual grant and local matching moneys under the program to date.

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

Senators Hensley, Morris, Emler, Abrams, Apple, Bruce, Brungardt, Donovan, Faust-Goudeau, Francisco, Haley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. SR 1808—

A RESOLUTION congratulating and commending Senator Janis K. Lee on her years of service in the Kansas legislature.

WHEREAS, Senator Janis Lee, of Kensington, is leaving the Kansas legislature after dedicating 23 years of service to the people of Kansas as a member of the Kansas Senate. She will continue to serve the state as the chief hearing officer for the Kansas State Court of Tax Appeals; and

WHEREAS, Senator Lee was elected to the Kansas Senate in 1988, after serving 10 years on the Kensington school board. She represented the Senate's 36th district, which includes Ellis, Hodgeman, Mitchell, Osborne, Pawnee, Phillips, Rush, Russell and Smith counties, as well as part of Jewell County; and

WHEREAS, During her time in the Kansas Senate, Senator Lee served as the Assistant Democratic Leader, Democratic Caucus Chairperson, and was a member of the committees on Agriculture and Natural Resources, Financial Institutions and Insurance, Governmental Organization, Education, Elections, Local Government, Public Health and Welfare, and Ways and Means. She was also the Ranking Minority Member on the Assessment and Taxation Committee, the Education Committee, and the Utilities Committee; and

WHEREAS, When she served as the ranking Democrat on the Senate Education Committee in the special session of 2005 and the regular session of 2006, Senator Lee was instrumental in the passage of a three-year school finance plan that guaranteed rural schools received their fair share of funding. She was a true champion for rural school districts and rural property taxpayers; and

WHEREAS, Senator Lee was a strong voice for improving the quality of life in rural communities in Kansas. She was born and raised on her family's farm, so she understands the importance of agriculture to the state. She still lives just a few miles away from her childhood home, where she and her husband, Lyn, operate a ranching and farming business. She has also served as a member ex-officio of the Kansas Agriculture and Rural Leadership Board; and

WHEREAS, Senator Lee is an effective and hard-working public servant whose gracious leadership will be missed by her colleagues and the people she proudly serves; and

WHEREAS, Senator Lee and her husband, Lyn, have three sons, David, Brian and Daniel: Now, therefore,
Be it resolved by the Senate of the State of Kansas: That we commend Senator Janis K. Lee for her many years of service to the people of the 36th

district and the State of Kansas and extend our best wishes for her continued success and happiness; and

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

On emergency motion of Senator Hensley **SR 1808** was adopted unanimously.

Senators Apple, Emler, Haley, Hensley, Kelly, McGinn, Morris, Ostmeier, Schodorf, Taddiken and Senator Vratil rose on a Point of Personal Privilege to pay tribute to Senator Lee upon her retirement of 23 years service to the Senate. Congratulations were in order for her new role as Chief Hearing Officer for the State Court of Tax Appeals. Lyn Lee, Senator Lee's husband was introduced. Senator Lee was acknowledged with a standing ovation.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 10** be passed.

Committee on **Commerce** 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:

Kansas Technology Enterprise Corporation, Member: K.S.A. 2010 Supp. 74-8101

Kyle Elliott, serves a term ending January 15, 2013

Committee on **Federal and State Affairs** begs leave to submit the following report:

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

By the Governor:

Adjutant General: K.S.A. 48-203

Lee Tafanelli, serves at the pleasure of the Governor

Kansas Lottery Commission, Member: K.S.A. 74-8709

Franklin Diehl, term expires March 15, 2012

Kansas Human Rights Commission, Member: K.S.A. 44-1003

Jerome Williams, term expires January 15, 2013

Committee on **Local Government** recommends **SB 40** be passed.

On motion of Senator Emler, the Senate adjourned until 2:30 p.m., Wednesday, January 26, 2011.

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

PAT SAVILLE, *Secretary of the Senate.*

