

# Journal of the House

## TENTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Monday, January 24, 2011, 11:00 a.m.

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

The roll was called with – members present.

Rep. was excused on verified illness.

Rep. was excused on legislative business.

Rep. was excused on excused absence by the Speaker.

### COMMITTEE ASSIGNMENT CHANGES

Speaker O'Neal announced the appointment of Rep. Burroughs to replace Rep. D. Gatewood on the Committee on Appropriations, Wednesday, January 26, through Friday, January 28.

Prayer by Chaplin Brubaker:

Our Heavenly Father,  
Every day we are faced with decisions  
which we have to choose between  
the dichotomy of Your Kingdom values  
and those of our society.  
We have been taught to take advantage & manipulate others...  
but You teach us to love others.  
We have the nature to look out for ourselves...  
but You have said to look out for others.  
We are tempted to get as much as we can...  
but You tell us to give as much as we can.  
We have been told to grow up...  
You say become like a child.  
Our tendency is to become a master...  
You encourage us to become a servant.  
We often want to do our own thing...  
You tell us to obey You and Your commandments.  
Today, Lord, in all our conversation and actions,  
help us choose the right path.  
In Christ's Name I pray, Amen.

The Pledge of Allegiance was led by Rep. DeGraaf.

Kansas Trivia Question - Ten-year-old Wilbur Chapman of White Cloud wanted to raise money for the American Leprosy Mission in 1913, so he made an odd-shaped device that caught everyone's eye. What is Wilbur credited with inventing?

Answer: The piggy bank

## MESSAGES FROM THE GOVERNOR

### MESSAGE FROM THE GOVERNOR

January 21, 2011

*Message to the House of Representatives of the State of Kansas:*

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

EXECUTIVE ORDER NO 11-01  
Creating the Office of the Repealer  
within the Kansas Department of Administration

SAM BROWNBACK  
*Governor*

The above Executive Order is on file and open for inspection in the office of the Chief Clerk.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Commerce and Economic Development: **HB 2054**

Corrections and Juvenile Justice: **HB 2055, HB 2057**

Education Budget: **HB 2053**

Financial Institutions: **HB 2056**

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**HB 2058**, AN ACT regulating traffic; concerning traffic controlled lights; relating to motorcycles; amending K.S.A. 8-1508 and repealing the existing section, by Committee on Transportation.

**HB 2059**, AN ACT concerning business and commerce; relating to the operation of second-hand stores, by Representative Sloan.

**HB 2060**, AN ACT concerning disposal of decedents' remains; amending K.S.A. 65-1734 and repealing the existing section, by Representative Sloan.

**HB 2061**, AN ACT concerning crimes, criminal procedure and punishment; relating

to criminal culpability, by Representative Sloan.

**HB 2062**, AN ACT concerning criminal procedure, relating to searches; amending K.S.A. 22-2501 and repealing the existing section, by Representative Sloan.

**HB 2063**, AN ACT designating xiphactinus audax as the state fossil of Kansas, by Representatives Sloan and Hineman.

**HB 2064**, AN ACT creating the Kansas higher education commission, by Committee on Vision 2020.

**HB 2065**, AN ACT concerning cities; relating to annexation; amending K.S.A. 12-531 and 12-532 and repealing the existing sections, by Committee on Local Government.

**HB 2066**, AN ACT concerning certain city annexation of fire district territory, by Committee on Local Government.

**HB 2067**, AN ACT concerning elections; relating to voter identification; amending K.S.A. 25-2411, 25-2416, 25-2423 and 25-2431 and K.S.A. 2010 Supp. 8-1324, 25-1122, 25-1122d, 25-1123, 25-1124, 25-1128, 25-2309, 25-2908, 25-3002 and 65-2418 and repealing the existing sections, by Representatives Kinzer, Arpke, A. Brown, Brunk, Burgess, Calloway, Carlson, Collins, DeGraaf, Donohoe, Fawcett, Fund, Garber, Goico, Goodman, Gregory, Amanda, Hildabrand, M. Holmes, Howell, Huebert, Kelley, Kelly, Kiegerl, Kleeb, Landwehr, Mast, McLeland, Meigs, Mesa, Montgomery, O'Brien, O'Hara, Osterman, Otto, Patton, Peck, Powell, Rhoades, Rubin, Ryckman, Scapa, Seiwert, Siegfried, Smith, Suellentrop, Vickrey, Weber, K. Wolf, B. Wolf and Worley.

**HB 2068**, AN ACT concerning the Kansas power of attorney act; relating to durable powers of attorney; duties of the attorney in fact; amending K.S.A. 58-651 and 58-664 and K.S.A. 2010 Supp. 58-652 and 58-656 and repealing the existing sections, by Committee on Judiciary.

**HB 2069**, AN ACT enacting the Kansas adverse medical outcome transparency act; concerning evidence in civil actions; expression of apology, sympathy, compassion or benevolent acts by health care providers not admissible as evidence of an admission of liability or as evidence of an admission against interest, by Committee on Judiciary.

**HB 2070**, AN ACT concerning eminent domain; relating to notification of payment of appraisers' award; amending K.S.A. 2010 Supp. 26-510 and repealing the existing section, by Committee on Judiciary.

**HB 2071**, AN ACT concerning inheritance rights; relating to revocation upon divorce, by Committee on Judiciary.

**HB 2072**, AN ACT concerning civil procedure; relating to remote claim liens on commercial property; establishing the state construction registry; amending K.S.A. 60-1103, 60-1110 and 60-1111 and repealing the existing sections, by Committee on Judiciary.

**HB 2073**, AN ACT concerning orders of support of a child; amending K.S.A. 2010 Supp. 38-1121 and 60-1610 and repealing the existing sections, by Committee on Judiciary.

HOUSE CONCURRENT RESOLUTION No. **HCR 5006**—

By Representative Kinzer

*Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed)*

*and qualified to the Senate concurring therein:*

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 24 of article 2 of the constitution of the state of Kansas is hereby amended to read as follows:

**"§ 24. Appropriations.** No money shall be drawn from the treasury except in pursuance of a specific appropriation made by law. *The executive and judicial branches shall have no authority to direct the legislative branch to make any appropriation of money or to redirect or limit in any fashion an appropriation already made by law, except as the legislative branch may provide by law or as may be required by the constitution of the United States.*"

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

*"Explanatory statement.* The purpose of this amendment is to clarify that the executive and judicial branches shall not direct the legislative branch to make any appropriation of money or redirect or limit the expenditures of funds appropriated by law, except as the legislative branch may provide by law or as may be required by the constitution of the United States.

"A vote for this amendment would clarify that section 24 of article 2 of the Kansas constitution provides that neither the judicial branch nor the executive branch can force the legislative branch to appropriate money, except as the legislative branch may provide by law or as may be required by the constitution of the United States. The amendment would also prohibit the judicial branch from ordering a change in how money is spent after it has been appropriated by the legislative branch, except as the legislative branch may provide by law or as may be required by the constitution of the United States. If money is appropriated for a particular purpose the judicial branch could not stop that money from being spent for that purpose.

"A vote against this amendment would provide no change to the Kansas constitution and the existing order that directs the legislative branch to make an appropriation of money shall remain in effect."

Sec. 3. This resolution, if approved by two-thirds of the members

elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in April in the year 2011 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

**HB 2074**, AN ACT concerning insurance rate filings; pertaining to the disclosure of certain information; amending K.S.A. 2010 Supp. 40-955 and repealing the existing section, by Committee on Insurance.

**HB 2075**, AN ACT concerning the insurance department's criminal anti-fraud division; extending the exception from disclosure of records under the open records act; repealing K.S.A. 2010 Supp. 40-2,118, by Committee on Insurance.

**HB 2076**, AN ACT concerning insurance; relating to municipal pools; amending K.S.A. 12-2620 and K.S.A. 2010 Supp. 12-2618 and repealing the existing sections, by Committee on Insurance.

**HB 2077**, AN ACT concerning worker's compensation; relating to group-funded pool filings to the insurance commissioner; amending K.S.A. 2010 Supp. 44-584 and repealing the existing section, by Committee on Insurance.

**HB 2078**, AN ACT concerning the state school for the blind and the state school for the deaf; relating to training programs; amending K.S.A. 76-1102a and repealing the existing section, by Committee on Education.

**HB 2079**, AN ACT concerning school districts; relating to transportation of pupils residing on the Leavenworth military reservation, by Committee on Education.

**HB 2080**, AN ACT concerning elections; relating to extension districts; amending K.S.A. 2-624 and repealing the existing section, by Committee on Elections.

**HB 2081**, AN ACT concerning special hospitals; requiring the provision of emergency services, by Committee on Health and Human Services.

**INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS**  
**The following resolution was introduced and read by title:**

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. HR 6007—

By Representatives O'Neal and Davis

A RESOLUTION relating to assignment of seats of the House of Representatives.

*Be it resolved by the House of Representatives of the State of Kansas:* That the members of the 2011 regular session shall occupy the same seats assigned pursuant to 2011 House Resolution 6002 with the following exceptions: Brown, seat No. 96, Hildabrand, seat No. 95, Mast, seat No. 113, Meigs, seat No. 114.

There being no objections, the following remarks of Rep. Rep. Davis are spread upon

the journal:  
HR6007

### **CHANGE OF REFERENCE**

Speaker O'Neal announced the withdrawal of **HB 2016** from the Committee on Education Budget and referral to the Committee on Education.

Speaker O'Neal announced the withdrawal of **HB 2018** from the Committee on Education Budget and referral to the Committee on Education.

### **MESSAGE FROM THE GOVERNOR**

#### **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 24<sup>th</sup> day  
of January, 2011

BY THE GOVERNOR  
SAM BROWNBACK

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

On motion of Rep. Siegfried, the House adjourned until 11:00 AM, Tuesday, January 25, 2011.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

