

Journal of the House

ELEVENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Tuesday, January 25, 2011, 11:00 a.m.

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

**STATE OF KANSAS
OFFICE OF
SECRETARY OF STATE**

To all to whom these presents shall come, Greetings:

I, KRIS W. KOBACH, Secretary of State of the State of Kansas, do hereby certify that Dennis Hedke, Wichita, was appointed by the Governor effective January 24, 2011, to the Kansas House of Representatives, Ninety Ninth District, to fill the vacancy created by the resignation of Aaron Jack.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused to be affixed my official seal this 24th day of January, A.D. 2011.

KRIS W. KOBACH
Secretary of State

OATH OF OFFICE

State of Kansas, County of Shawnee, ss:

I do solemnly swear that I will support the Constitution of the United State and the Constitution of the State of Kansas, and faithfully discharge the duties of the Office of Representative of the State of Kansas, so help me God.

Signed: DENNIS HEDKE

Subscribed and sworn to before me this 24th day of January, 2011.

KRIS W. KOBACH
Secretary of State

The roll was called with 122 members present.
Rep. Ballard was excused on legislative business.

Reps. Dillmore and Peterson were excused on excused absence by the Speaker.
The House is now organized with 125 members.

Prayer by Rep. Moxley:

On the occasion of Dwight D. Eisenhower's 119th birthday, let us bow our heads and remember the prayer for mankind that Eisenhower wrote at the end of his famous farewell address to the nation on the 17th of January 1961...

We pray that peoples of all faiths, all races, all nations, may have their great human needs satisfied; that those now denied opportunity shall come to enjoy it to the full; that all who yearn for freedom may experience its spiritual blessings; that those who have freedom will understand, also, its heavy responsibilities; that all who are insensitive to the needs of others will learn charity; that the scourges of poverty, disease and ignorance will be made to disappear from the earth, and that, in the goodness of time, all peoples will come to live together in a peace guaranteed by the binding force of mutual respect and love.

The Pledge of Allegiance was led by Rep. Victors.

Kansas Trivia Question – In the 1936 presidential election Democrat Franklin D. Roosevelt ran against two Kansans. The better known was the Republican candidate, Alf Landon, originally from Independence. The other Kansan who opposed Roosevelt was Earl Browder from Wichita. What party nominated Browder for president?

Answer: The Socialists.

INTRODUCTION OF GUESTS

There being no objection, the following remarks of Rep. Rep. Carlin, are spread upon the journal:

I would like to introduce the 6A State Volleyball Champions from Manhattan High School. This was Lisa Kinderknecht's first year as head coach of the Manhattan High Inidan volleyball team. The championship and Indian record earned her recognition as coach of the Year for Class 6A. Coach Kinderknecht had taken over the program from Lori Martini who led the program to nine state tournaments, including the last state title in 2003. This year the Manhattan High Indians captured the 6A state title by beating Maize in the finals after advancing in a win over long time rival and the previous state champions – Washburn Rural. After coming in third last year at the State Tournament, it was Manhattan High's turn for a State Championship. The Indians overall record was 31-11. Mari Jo Massanet led the Indians in kills and was named Player of the Year for Class 6A as well as being named to the State Team, All Tournament Team, and the Centennial League First Team. Sarah Tatarko led the team with assists and was also named to the State Team, All Tournament Team, and Centennial League First Team. Jordyn Holle led the Indians with digs and was named Honorable Mention to the State Team and Second Team Centennial League. Kylie Rupe, another team leader with kills,

was also named to the Second Team Centennial League and was All Tournament Team at the Tonganoxie Invitational along with Mari Jo Massanet. Kayla Shields, Alexia Evans, Lindsay Ekart and Kami Dillon also received honorable mention for the Centennial League. Other varsity players for MHS Volleyball include Aubrey Jung, Colbi Brooks, Lauren Goralczyk, Shelby Hill, and Jessie Kujawa. The team managers are also with us today – Carrie Andrade, Michaela Braun, Harley Roedel and Stephanie Shanower.

On behalf of Rep. Mosier, Rep. Carlin presented the coach and team with a framed House Certificate.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2082, AN ACT concerning the maintenance of previously installed medical gas piping systems in hospitals; amending K.S.A. 2010 Supp. 12-1509 and repealing the existing section, by Committee on Health and Human Services.

HB 2083, AN ACT relating to mortuary arts; concerning the notification of individuals with prefinanced funeral agreements; amending K.S.A. 65-1713a and repealing the existing section, by Committee on Health and Human Services.

HB 2084, AN ACT concerning governmental organization; relating to consolidation; amending K.S.A. 12-3901, 12-3902, 12-3903, 12-3904, 12-3909 and 19-205 and repealing the existing sections, by Committee on Local Government.

HB 2085, AN ACT relating to insurance; concerning title insurance; amending K.S.A. 2010 Supp. 40-1137 and repealing the existing section, by Committee on Insurance.

HB 2086, AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; employer contributions; amending K.S.A. 2010 Supp. 74-4914d and 74-4920 and repealing the existing sections, by Joint Committee on Pensions, Investments, and Benefits.

HB 2087, AN ACT to protect rights and privileges granted under the United States or Kansas constitutions, by Representatives Mast, Arpke, Boman, Brunk, Carlson, Collins, Crum, DeGraaf, Donohoe, Fund, Garber, Gonzalez, Goodman, Gregory, Amanda, Hermanson, Hoffman, M. Holmes, Howell, Huebert, Kelley, Kiegerl, Kinzer, Landwehr, McLeland, Meier, Meigs, Montgomery, O'Brien, O'Hara, O'Neal, Osterman, Otto, Pauls, Rhoades, Rubin, Ryckman, Scapa, Seiwert, Siegfried, Smith, Spalding, Suellentrop, Vickrey and Weber.

HB 2088, AN ACT concerning cities and counties; relating to residential fire protection sprinkler systems; amending K.S.A. 2010 Supp. 12-16,219 and repealing the existing section, by Committee on Commerce and Economic Development.

HB 2089, AN ACT concerning hunting; relating to hunting dogs; permitting owners to retrieve their dogs from posted land.; amending K.S.A. 2010 Supp. 32-1013 and repealing the existing section, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Agriculture and Natural Resources: **HB 2063**.

Corrections and Juvenile Justice: **HB 2059, HB 2061, HB 2062**
Education: **HB 2064, HB 2078, HB 2079.**
Elections: **HB 2067, HB 2080.**
Health and Human Services: **HB 2081.**
Insurance: **HB 2074, HB 2075, HB 2076, HB 2077**
Judiciary: **HB 2068, HB 2069, HB 2070, HB 2071, HB 2072, HB 2073; HCR 5006.**
Local Government: **HB 2065, HB 2066.**
Transportation: **HB 2058.**
Veterans, Military and Homeland Security: **HB 2060.**

MESSAGE FROM THE GOVERNOR

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 reappropriated 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 AT The Capitol in Topeka
Under the Great Seal of the
State of Kansas this 24th day
of January 2011.

BY THE GOVERNOR
SAM BROWNBACK

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

COMMUNICATIONS FROM THE STATE OFFICERS

From Ernest E. Garcia, Superintendent, Kansas Highway Patrol, pursuant to K.S.A. 60-4117, report regarding state forfeiture funds.

From Gary Alexander, Vice President of Academic Affairs, Kansas Board of Regents, pursuant to K.S.A. 76-717, Report on the Implementation of Qualified Admissions.

From REAP (Regional Economic Area Partnership) of South Central Kansas, in accordance with **H. Sub. for SB 475** (2006), report on the expenditures of the state annual grant and local matching moneys under the program.

The complete reports are kept on file and open for inspection in the office of the Chief Clerk.

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were thereupon introduced and read by title:

HB 2090, AN ACT concerning school districts; relating to transportation of pupils residing within 2½ miles of the school building; amending K.S.A. 2010 Supp. 72-8302 and repealing the existing section, by Committee on Education.

HB 2091, AN ACT concerning taxation; relating to sales and compensating use tax; rate of taxation; amending K.S.A. 2010 Supp. 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections, by Representatives Kinzer, Brown, Collins, Donohoe, Garber, Goodman, Gregory, Amanda, Hildabrand, Howell, Kiegerl, Landwehr, Meigs, Montgomery, O'Brien, O'Hara, Osterman, Patton, Rubin, Scapa, Smith and Suellentrop.

On motion of Rep. Siegfried, the House adjourned until 11:00 a.m., Wednesday, January 26, 2011.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*