

Journal of the Senate

SIXTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, January 20, 2015, 2:30 p.m.

The Senate was called to order by President Susan Wagle.
The roll was called with 38 senators present.
Senators Ostmeyer and Wolf were excused.
Invocation by Father Don Davidson:

Dear Lord, yesterday we celebrated the life of your beloved son Martin Luther King Jr. who once said from the Birmingham Jail that “Injustice anywhere is a threat to justice everywhere.” Dr. King’s influence grows with each passing year as we discover the atrocities that lead to civil rights legislation across our land. There can be no hope unless there is hope for every child in your heart without label or stereotype. Our nation lives out its creed by the way we practice what Dr. King taught. Bless us, dear Lord, with the working out of his dream. In your name we pray. Amen

The Pledge of Allegiance was led by President Susan Wagle.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 36, AN ACT concerning water; relating to multi-year flex accounts; amending K.S.A. 2014 Supp. 82a-708c and 82a-736 and repealing the existing sections, by Committee on Natural Resources.

SB 37, AN ACT concerning children and minors; enacting the Kansas foster parents' bill of rights act; relating to the revised Kansas code for care of children; amending K.S.A. 2014 Supp. 38-2212, 38-2255, 38-2258 and 38-2270 and repealing the existing sections, by Committee on 2014 Special Committee on Judiciary.

SB 38, AN ACT concerning patent infringement; relating to bad faith assertions of patent infringement, by Committee on 2014 Special Committee on Judiciary.

SB 39, AN ACT relating to the powers, duties and functions transferred to the Kansas department for aging and disability services from the Kansas department for children and families and the department of health and environment; updating references and corresponding changes due to the Executive Reorganization Order No. 41, published in chapter 185 of the 2012 Session Laws of Kansas; amending K.S.A. 75-5308d, 75-5309, 75-5364, 76-157, 76-158 and 76-12a24 and K.S.A. 2014 Supp. 8-2,144, 8-1025, 21-5909, 36-502, 38-2006, 38-2212, 39-1702, 40-4702, 59-29a24, 65-689, 65-6233, 75-7d01, 75-5321a, 75-6524 and 75-7033 and repealing the existing sections, by Committee on Public Health and Welfare.

SB 40, AN ACT enacting the massage therapist licensure act; providing for powers, duties and functions of the state board of nursing; amending K.S.A. 2014 Supp. 74-1112 and repealing the existing section, by Committee on Public Health and Welfare.

SB 41, AN ACT concerning elections; dealing with the uniformed and overseas citizens absentee voting act; amending K.S.A. 25-1214 and K.S.A. 2014 Supp. 25-1216 and repealing the existing sections, by Committee on Ethics and Elections.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Ways and Means: **SB 35**.

MESSAGE FROM THE GOVERNOR

January 16, 2015

Pursuant to Article 1, Section 6(b) of the Constitution of the State of Kansas, I am transmitting this day Executive Reorganization Order No. 43 to both houses of the Kansas Legislature. Simultaneous with this Order, I am transmitting the accompanying Governor's Message.

This reorganization affects operations at the Kansas Department of Health and Environment and the Kansas Department for Children and Families.

Beginning July 1, 2015 the Department for Children and Families will assume foster care licensing responsibilities that currently fall under KDHE. DCF is responsible for child welfare services in Kansas. Placing that responsibility under DCF will help streamline the process and further the agency's ability to monitor the entire foster care system and serve those in need.

This Executive Reorganization Order also transfers Medicaid eligibility processing duties from DCF to KDHE on January 1, 2016. KDHE is the State Medicaid agency and currently has employees in the Division of Health Care Finance with knowledge and expertise in Medicaid eligibility. Combining the current KDHE and DCF work groups that manage Medicaid eligibility will improve service by reducing the Kansas Medicaid Payment Error Rate Measurement by coordinating staff training and ensuring uniform implementation of policy and processing changes.

This will be a positive change for both agencies and the State of Kansas. The reorganization will allow DCF to better monitor the entire foster care system. It will also enhance the coordination between when a client applies for Medicaid, is determined eligible and receives medical services.

My administration looks forward to working with the Kansas Legislature on this and other solutions to provide better service to the citizens of Kansas.

Sam Brownback
Governor

EXECUTIVE REORGANIZATION ORDER NO. 43

Section 1. (a) The department of health and environment was established by K.S.A. 75-5601 et seq.

(b) Within the department of health and environment there are three divisions:

division of public health, the division of environment and the division of health care finance.

(c) Within the division of public health there are various bureaus and programs which carry out and administer the multiple functions of the department.

(d) Included among those bureaus of the division of public health is the bureau of family health. Within the bureau of family health there is the child placing agency and residential programs section. Among other functions, this bureau licenses and regulates foster care and other residential facilities.

(e) The department for children and families was established by K.S.A. 75-5301 et seq.

(f) Within the department for children and families there is an economic and employment services section that, among other functions, determines eligibility for services under Title XIX of the Social Security Act, known as Medicaid and eligibility for services for state funded medical services.

(g) Except as otherwise provided by this order, beginning January 1, 2016 all the powers, duties and functions of the department for children and families, economic and employment services section that, among other functions, determines eligibility for services under Title XIX of the Social Security Act, known as Medicaid and eligibility for services for state funded medical services are hereby transferred to and imposed upon the department for health and environment and the secretary of the department of health and environment.

(h) Except as otherwise provided by this order, beginning July 1, 2015 all the powers, duties and functions of the department of health and environment, division of public health section for child placing agencies and residential facilities which, among other things, licenses and regulates foster care and other residential facilities are hereby transferred to and imposed upon the Kansas department for children and families and the secretary of the department for children and families.

(i) The department for children and families shall be the successor in every way to the powers, duties and functions of the bureau of family health, child placing agency and residential programs section in which the same were vested prior to the effective date of this order. Every act performed in the exercise of such transferred power, duties and functions by or under the authority of the department of health and environment, division of public health, bureau of family health, child placing agency and residential programs section shall be deemed to have the same force and effect as if performed by the department of health and environment in which such powers, duties, and functions were vested prior to the effective date of this order.

(j) The department of health and environment shall be the successor in every way to the powers, duties and functions of the department for children and families concerning duties and functions of the department for children and families, economic and employment services section that determines eligibility for services under Title XIX of the Social Security Act (Medicaid) and eligibility for state funded medical services in which the same were vested prior to the effective date of this order. Every act performed in the exercise of such transferred power, duties and functions by or under the authority of the department for children and families, economic and employment services section that, among other functions, determines eligibility for services under Title XIX of the Social Security Act, known as Medicaid and eligibility for services for state funded medical services, that pertains to determining eligibility for Medicaid and

state funded medical services shall be deemed to have the same force and effect as if performed by the department for children and families in which such powers, duties, and functions were vested prior to the effective date of this order.

Section 2. (a) The department for children and families or designees appointed by the secretary shall be the successor in every way to the powers, duties, and functions of any state agency department, board, commission or council, providing services and creating systems in order to comply with the provisions of any laws or regulations affecting the department of health and environment, division of public health, bureau of family health, child placing and residential programs. Every act performed in the exercise of such transferred powers, duties, and functions by or under the authority of the department for children and families shall be deemed to have the same force and effect as if performed by any state agency, department, board, commission or council in which such powers, duties and functions were vested prior to the date of this order.

(b) The department of health and environment or designees appointed by the secretary shall be the successor in every way to the powers, duties, and functions of any state agency department, board, commission or council, providing services and creating systems in order to comply with the provisions of any laws or regulations affecting the department for children and families, eligibility and employment services section which pertains to determining eligibility for Medicaid services. Every act performed in the exercise of such transferred powers, duties, and functions by or under the authority of the department of health and environment shall be deemed to have the same force and effect as if performed by any state agency, department, board, commission or council in which such powers, duties and functions were vested prior to the date of this order.

(c) Wherever the department of health and environment, pertaining to the duties or functions of the child placing agency and residential programs section division of public health, bureau of family health, or words of like effect is referred to or designated by statute, contract, memorandum, agreement or other document and such reference is in regard to any of the powers, duties or functions transferred to the department for children and families, such reference or designation shall be deemed to apply to the department for children and families.

(d) Wherever the department for children and families, economic and employment services section that determines eligibility for services under Title XIX of the Social Security Act (Medicaid) and state funded medical services, or words of like effect are referred to or designated by statute, contract, memorandum, agreement or other document and such reference is in regard to any of the powers, duties or functions transferred to the department of health and environment, such reference or designation shall be deemed to apply to the department of health and environment.

(e) All rules and regulations, orders and directives of the Kansas department of health and environment 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 secretary of the department for children and families respective to the duties that the secretary for children and families is assuming by this order.

(f) All rules and regulations, orders and directives of the Kansas department for children and families 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 secretary of the

department of health and environment respective to the duties that the secretary of health and environment is assuming by this order.

Section 3. (a) The balance of all funds or accounts thereof appropriated or reappropriated for the Kansas department of health and environment or any state agency, department, board, commission or council, relating to the powers, duties and functions transferred by this order are hereby transferred within the state treasury to the department for children and families respective to the powers, duties and functions transferred by this order.

(b) The balance of all funds or accounts thereof appropriated or reappropriated for the Kansas department for children and families or any state agency, department, board, commission or council, relating to the powers, duties and functions transferred by this order are hereby transferred within the state treasury to the department of health and environment respective to the powers, duties and functions transferred by this order.

(c) Liability for the accrued compensation or salaries of officers and employees who are transferred to the department for children and families under this order shall be assumed and paid by the department for children and families, respective to the powers, duties and functions transferred by this order.

(d) Liability for the accrued compensation or salaries of officers and employees who are transferred to the department of health and environment under this order shall be assumed and paid by the department of health and environment, respective to the powers, duties and functions transferred by this order.

Section 4. (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 for children and families and the department of health and environment shall respectively succeed to all property, property rights and records which were used for or pertain to the performance of powers, duties and functions transferred by this order.

Section 5. (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.

Section 6. (a) All officers and employees of the Kansas department of health and environment, 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 Kansas department of health and environment who are determined by the secretary of the Kansas department for children and families and the secretary of the Kansas 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 department for children and families,

respective to the powers, duties and functions transferred to the department by this order. All classified officers and employees so transferred shall retain their status as classified employees.

(b) All officers and employees of the Kansas department for children and families, 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 Kansas department for children and families who are determined by the secretary of the Kansas department of health and environment and the secretary of the Kansas department for children and families 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 department of health and environment, respective to the powers, duties and functions transferred to the department by this order. All classified officers and employees so transferred shall retain their status as classified employees.

(c) Officer and employees of the Kansas department of health and environment and officers and employees of the Kansas department for children and families 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 or employee so transferred shall be deemed to have been continuous. Any subsequent transfers, layoffs or abolitions of classified service positions under 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 either the Kansas department of health and environment or the Kansas department for children and families prior to the date of transfer.

(d) Notwithstanding the effective date of this order, the provisions of this order prescribing the transfer of officers and employees from the Kansas department of health and environment and the Kansas department for children and families, the date of transfer of each such officer or employee shall commence at the start of a payroll period.

Section 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, 2015, unless disapproved by either house of the Kansas legislature as provided by subsection 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 16th day
of January, 2015.

BY THE GOVERNOR:
Sam Brownback

KRIS W. KOBACH
Secretary of State of Kansas

ERIC RUCKER

Assistant Secretary of State of Kansas

COMMUNICATIONS FROM STATE OFFICERS

KANSAS DEPARTMENT OF LABOR
January 20, 2015

Secretary, Lana Gordon, submitted the 2014 Annual Report.

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

REPORT ON ENGROSSED BILLS

SR 1703 reported correctly engrossed on January 14, 2015.

On motion of Senator Bruce, the Senate adjourned until 2:30 p.m., Wednesday, January 21, 2015.

ROSE MARIE GLATT, CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.
COREY CARNAHAN, *Secretary of the Senate*.

