

Executive Reorganization Order No. 31

By Governor Kathleen Sebelius

1-14

Section 1. There is hereby established, within the Kansas department of commerce, a division of workforce development. The head of the division shall be the director of workforce development, who shall be appointed by and serve at the pleasure of the secretary of the department of commerce. The director shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of commerce, with the approval of the governor. Under the supervision of the secretary of commerce, the director of workforce development shall administer the division of workforce development.

Sec. 2. (a) The division of employment and training within the department of human resources created by K.S.A. 75-5714, and amendments thereto, is hereby abolished. On the effective date of this order, the department of human resources is hereby renamed the department of labor, and the secretary of human resources is hereby renamed the secretary of labor.

(b) Except as otherwise provided by this order, all of the powers, duties, and functions of the existing division of employment and training within the department of human resources and of the existing director of employment and training are hereby transferred to and imposed upon the division of workforce development within the department of commerce and the director of workforce development established by this order.

(c)(1) Except as otherwise provided by this order, all of the powers, duties, and functions of the department of human resources and the secretary of human resources that relate to labor exchange and training, including but not limited to those powers, duties, and functions that relate to the workforce network of Kansas board, the Kansas apprenticeship council, and the commission on disability concerns, are hereby transferred to and imposed upon the department of commerce and the secretary of commerce.

(2) Notwithstanding the provisions of paragraph (c)(1) above, both the secretary of commerce and the secretary of labor shall continue to be ex officio members of the commission on disability concerns.

Sec. 3. (a) The division of workforce development within the depart-

1 ment of commerce and the director of workforce development estab-
2 lished by this order shall be the successor in every way to the powers,
3 duties, and functions of the division of employment and training within
4 the department of human resources and the director of employment and
5 training in which the same were vested prior to the effective date of this
6 order and that are transferred pursuant to section 2. The department of
7 commerce and the secretary of commerce shall be the successor in every
8 way to the powers, duties, and functions of the department and secretary
9 of human resources in which the same were vested prior to the effective
10 date of this order and that are transferred pursuant to section 2. Every
11 act performed in the exercise of such transferred powers, duties, and
12 functions by or under the authority of the department or secretary of
13 commerce or the division or director of workforce development within
14 the department of commerce shall be deemed to have the same force
15 and effect as if performed by the department or secretary of human re-
16 sources or the division or director of employment and training within the
17 department of human resources in which such powers, duties, and func-
18 tions were vested prior to the effective date of this order.

19 (b) Whenever the division of employment and training of the de-
20 partment of human resources, or words of like effect, are referred to or
21 designated by a statute, contract, or other document, such reference or
22 designation shall be deemed to apply to the division of workforce devel-
23 opment established by this order.

24 (c) Whenever the director of employment and training within the
25 department of human resources, or words of like effect, are referred to
26 or designated by a statute, contract, or other document, such reference
27 or designation shall be deemed to apply to the director of workforce
28 development established by this order.

29 (d) Whenever the department of human resources or the secretary
30 of human resources, or words of like effect, are referred to or designated
31 by a statute, contract, or other document and such reference is in regard
32 to any of the powers, duties, or functions transferred to the department
33 or secretary of commerce pursuant to this order, such reference or des-
34 ignation shall be deemed to apply to the department of commerce or the
35 secretary of commerce.

36 (e) All rules and regulations, orders, and directives of the secretary
37 of the department of human resources or the director of employment
38 and training which relate to the functions transferred by this order and
39 which are in effect on the effective date of this order shall continue to be
40 effective and shall be deemed to be rules and regulations, orders, and
41 directives of the secretary of commerce or the director of workforce de-
42 velopment until revised, amended, revoked, or nullified pursuant to law.

43 Sec. 4. (a) On the effective date of this order, the balances of all

1 funds or accounts thereof appropriated or reappropriated for the depart-
2 ment of human resources relating to the powers, duties, and functions
3 transferred by this order are hereby transferred within the state treasury
4 to the department of commerce and shall be used only for the purpose
5 for which the appropriation was originally made.

6 (b) On the effective date of this order, liability for all accrued com-
7 pensation or salaries of officers and employees who are transferred to the
8 department of commerce under this order shall be assumed and paid by
9 the department of commerce.

10 Sec. 5. (a) When any conflict arises as to the disposition of any prop-
11 erty, power, duty, or function or the unexpended balance of any appro-
12 priation as a result of any abolition or transfer made by or under the
13 authority of this order, such conflict shall be resolved by the governor,
14 whose decision shall be final.

15 (b) The department of commerce shall succeed to all property, prop-
16 erty rights, and records which were used for or pertain to the performance
17 of powers, duties, and functions transferred to the department of com-
18 merce. Any conflict as to the proper disposition of property, personnel,
19 or records arising under this order shall be determined by the governor,
20 whose decision shall be final.

21 Sec. 6. (a) No suit, action, or other proceeding, judicial or admin-
22 istrative, lawfully commenced, or which could have been commenced, by
23 or against any state agency or program mentioned in this order, or by or
24 against any officer of the state in such officer's official capacity or in
25 relation to the discharge of such officer's official duties, shall abate by
26 reason of the governmental reorganization effected under the provisions
27 of this order. The court may allow any such suit, action, or other pro-
28 ceeding to be maintained by or against the successor of any such state
29 agency or any officer affected.

30 (b) No criminal action commenced or which could have been com-
31 menced by the state shall abate by the taking effect of this order.

32 Sec. 7. (a) Except with respect to the powers, duties, and functions
33 that are transferred by this order to the department or secretary of com-
34 merce or the division or director of workforce development within the
35 department of commerce, the department of labor and the secretary of
36 labor shall be the successor in every way to the powers, duties, and func-
37 tions of the department and secretary of human resources in which the
38 same were vested prior to the effective date of this order. Every act
39 performed in the exercise of such powers, duties, and functions by or
40 under the authority of the department of labor or the secretary of labor
41 shall be deemed to have the same force and effect as if performed by the
42 department of human resources or the secretary of human resources in
43 which such powers, duties, and functions were vested prior to the effec-

1 tive date of this order.

2 (b) Whenever the department of human resources, or words of like
3 effect, are referred to or designated by a statute, contract, or other doc-
4 ument, and such reference or designation is in regard to any function,
5 power, or duty other than those powers, duties, and functions that are
6 transferred to the department of commerce under this order, such ref-
7 erence or designation shall be deemed to apply to the department of
8 labor.

9 (c) Whenever the secretary of human resources, or words of like ef-
10 fect, are referred to or designated by a statute, contract, or other docu-
11 ment, and such reference or designation is in regard to any function,
12 power, or duty other than those powers, duties, and functions that are
13 transferred to the department of commerce under this order, such ref-
14 erence or designation shall be deemed to apply to the secretary of labor.

15 (d) All rules and regulations, orders, and directives of the secretary
16 of the department of human resources that relate to functions other than
17 those functions transferred by this order and that are in effect on the
18 effective date of this order shall continue to be effective and shall be
19 deemed to be rules and regulations, orders, and directives of the secretary
20 of labor until revised, amended, revoked, or nullified pursuant to law.

21 Sec. 8. (a) All officers and employees of the division of employment
22 and training within the department of human resources who, immediately
23 prior to the effective date of this order, are engaged in the exercise and
24 performance of the powers, duties, and functions transferred by this or-
25 der, as well as all officers and employees of the department of human
26 resources who are determined by the secretary of human resources and
27 secretary of commerce to be engaged in providing administrative, tech-
28 nical, or other support services that are essential to the exercise and per-
29 formance of the powers, duties, and functions transferred by this order,
30 are hereby transferred to the department of commerce. All classified em-
31 ployees so transferred shall retain their status as classified employees.

32 (b) Officers and employees of the department of human resources
33 transferred by this order shall retain all retirement benefits and leave
34 balances and rights which had accrued or vested prior to the date of
35 transfer. The service of each such officer and employee so transferred
36 shall be deemed to have been continuous. Any subsequent transfers, lay-
37 offs, or abolition of classified service positions under the Kansas civil serv-
38 ice act shall be made in accordance with the civil service laws and any
39 rules and regulations adopted thereunder. Nothing in this order shall
40 affect the classified status of any transferred person employed by the
41 department of human resources prior to the date of transfer.

42 Sec. 9. All of the provisions of this order shall take effect and have
43 the force of general law on July 1, 2004, unless disapproved by either

1 house of the Kansas legislature as provided by subsection (c) of section 6
2 of article 1 of the constitution of Kansas, and unless so disapproved, this
3 order is to be published as and with the acts of the legislature and the
4 statutes of this state.

5
6 DONE AT The Capitol in Topeka
7 Under the Great Seal of the
8 State of Kansas this ____ day
9 of _____, 2004.

10
11 BY THE GOVERNOR
12 KATHLEEN SEBELIUS

13
14 RON E. THORNBURGH
15 *Secretary of State*

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17 JANET A. CHUBB
18 *Assistant Secretary of State*
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