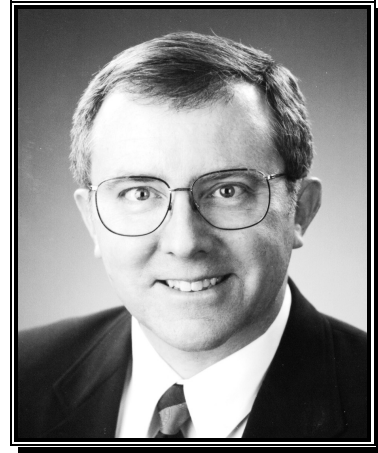


From The Desk Of...

Jay Scott Emler

Kansas Senate 35th District



~Week of March 14 - March 18, 2005~

- **Fairness in Private Construction**

Substitute for Senate Bill 33 would create the Kansas Fairness in Private Construction Contract Act. The bill would require that all persons who enter into a private construction contract be required to make all payments pursuant to the terms of the contract. Proponents suggest that SB 33 will ensure the general contractor, sub-contractors, and suppliers are treated fairly and paid timely for work properly performed. Once the general contractor has been paid, he has five business days to pay the sub-contractor who in turn has five business days to pay the supplier. If payment schedules are not met then the unpaid party can stop work and not be in violation of the contract.

If this action does not instigate payment then a claim can be made in court. If successful, the unpaid party will get the money due, plus interest at 1.5% per month and be reimbursed for the court costs and reasonable attorney's fees by the losing party. The venue for any court action or arbitration will remain in the county where the project is located.

Opponents do not like the idea of the State of Kansas being empowered to dictate private business contract terms. They also claim SB 33 would not allow for the owner and general contractor to negotiate payment terms, thereby discouraging private companies from wanting to construct in Kansas. Further, they suggest the contract terms stipulated in the bill restrict the ability of small and disadvantaged businesses from getting work. The bill passed the Senate on a vote of 36 to 3.

- **Teacher Service Scholarship**

Senate Bill 44 introduced by the Senate Committee on Education would amend the Teacher Service Scholarship. This scholarship is awarded to students who are planning to teach in a hard-to-fill discipline or underserved geographic area. Senate Bill 44 proposes adding math and science for grades 5 through 12 to the definition of a hard-to-fill discipline. Hard-to-fill is defined as a critical shortage of teachers as determined by the Board of Education. A scholarship

may be awarded under the teacher service scholarship program to any qualified student and may be renewed for each such student who remains qualified for the scholarship.

- **Interstate Insurance Product Regulation Compact**

The Senate Committee on Financial Institutions and Insurance recommended Senate Bill 268 to the Senate for passage and on March 16, 2005 this bill passed the Senate with a vote of 31 to 8. This bill would enact new law to allow Kansas to join the Interstate Insurance Product Regulation Compact, a National Association of Insurance Commissioners (NAIC) initiative. The NAIC has created a national system for the regulation of life and annuity products by states. Products such as life insurance, annuities, disability income and long-term care insurance would be regulated under the Compact.

The stated purposes of the Compact are "to promote and protect the interest of consumers and individual and group annuity, life insurance, disability income, and long-term care insurance products; (and) develop uniform standards for insurance products covered under the Compact." The Compact would also create an Interstate Insurance Product Regulation Commission whose powers would include the development of uniform standards for product lines, receipt and review of the filed products and the approval of those product filings satisfying the uniform standards.

- **Preventing Long-Term Care Abuse**

House Bill 2153 would require complaints of suspected abuse, neglect or exploitation of residents of adult care homes that are brought to the attention of the Long-Term Care Ombudsman to also be referred to the Secretary of Aging instead of the Secretary of Health and Environment. The bill also empowers the Department of Social and Rehabilitation Services to collaborate in establishing a system for collection and analysis of information about conditions in adult care homes along with the Long-Term Care Ombudsman. This bill was introduced with the backing of the Secretary of Aging and the State Long-Term Care Ombudsman.

The State Long-Term Care Ombudsman is an advocate of residents in long-term care facilities throughout the state. This office is authorized to investigate and resolve complaints made by or on behalf of residents relating to action, inaction or decisions of facilities or the representatives of facilities. The office also develops continuing programs to inform residents, family members or other persons responsible for residents about the rights and responsibilities of residents. As a measure of accountability the office shall also provide the legislature and the governor with an annual report containing date, findings and outcomes regarding the types of problems experienced and complaints received.

- **Amend the Child Passenger Safety Act**

House Bill 2109 would amend the Child Passenger Safety Act to exclude vintage cars from safety belt requirements. The bill would also raise the fine for not using seatbelts from \$20 to \$60. The bill makes changes in the definition of a passenger car to be a motor vehicle manufactured or assembled with safety belts after 1968. Cars built prior to 1968 fall into the vintage car category, as long as they weren't initially built with seatbelts. The existing definition of a passenger car does not contain a reference to a manufacturing or assembly date. Typically,

all vehicles built after 1967 were required to have safety belts although many cars were built with safety belts prior to that date.

The bill also amends the law to require the following child protection measures when a driver is transporting a child under the age of 18. If a child is four to seven years old and weighs less than 80 pounds or is less than 4 feet 9 inches in height, the child must use a child passenger safety restraining system. Secondly, any child that is eight to 17 years of age who weighs 80 pounds or more and is taller than 4 feet 9 inches in height, is required to wear a seat belt anywhere in the car. Current law only requires them to use the seatbelt if they are in the front seat.

No opponents provided testimony on the bill. The sole proponent that provided testimony claimed that HB 2109 allows owners of vintage vehicles to operate them on Kansas highways without being afraid of being cited due to a lack of seatbelts in the vehicle. They also suggest the addition of seatbelts to some of these vehicles would not only be difficult but would reduce the value of the vehicle due to the modification. This bill passed the Senate on March 16, 2005 with a vote of 30 to 9.

- **Private Prison Bill**

March 17, 2005, Senate Bill 243 passed the Senate with a vote of 25 to 13. SB 243 would enact the Private Contract Prison Act. The bill would provide for the authorization, construction, license, and operation of a private prison by a private contractor under the oversight of the Secretary of Corrections. This bill would allow the Secretary to license, monitor and regulate private contractors who construct, own or operate one or more private prisons in the state.

The Secretary would be authorized to suspend or revoke a license for failure to comply with any requirements delineated in the Act. The Department of Corrections would not be obligated to house inmates but would be given first choice over other states to do so. There is currently a private prison in Leavenworth County but it is solely for federal prisoners.

Private prisons would be required to abide by operations standards for correctional facilities adopted by the Secretary. The prison must also incarcerate all inmates assigned to the prison and cannot reject inmates assigned to it by the Department of Corrections. Furthermore, the prison would be responsible to provide dental, medical and psychological services as well as other programs at least equal to those provided at comparable state correctional facilities.

- **Utilities**

SB 303 was filed late this week to address the hydrogen sulfide situation in southwest Kansas. The Utilities Committee will hold hearings Monday morning on the bill.

- **Toll Free Legislative Hotline**

The State Library will continue its practice of operating the toll free hotline for Kansans to call their legislators and leave brief messages. The hotline number is 1-800-432-3924. If you are receiving this newsletter and really would like to be taken off my list, just let me know. My legislative district includes: Barton, Dickinson, Ellsworth, Lincoln, Marion, McPherson and Rice counties. If you know of others that would like to receive this newsletter, have them contact

me and I will add them to my list. I prefer to send by e-mail since the cost is essentially free, but I do have a limited legislative postage allowance, which is largely reserved for distributing this letter.

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