

# Senator Jay Emler

## Kansas Senate District 35



### From the Desk of Jay Scott Emler

January 24, 2008

Today marks the end of the third week of the Legislative Session.

#### **SB 410 Juvenile Corrections**

The Senate Committee on Federal and State Affairs submitted a bill that clarifies existing statutory language dealing with the four current juvenile correctional facilities. In addition, the bill allows the appointment of a superintendent and deputy superintendents and eliminates the attorney position at the Kansas Juvenile Correctional Complex. The bill eliminates references to the Topeka Juvenile Correctional Facility (TJCF). All references to the TJCF in contracts and documents will be attributed to the Kansas Juvenile Correctional Complex. The bill allows the Commissioner of Juvenile Justice to appoint a superintendent and a deputy superintendent for each institution and permit a person to serve as a superintendent at more than one institution. Further, the bill authorizes the appointment of an acting superintendent in the case of a vacancy. The bill eliminates the statutory authority to appoint an attorney employed by the Kansas Juvenile Correctional Complex. Finally, the bill repeals the statute that finds any individual convicted of assisting or harboring an escaped juvenile from a juvenile correctional facility guilty of a misdemeanor.

*SB 410 passed unanimously.*

#### **Tourism**

A bill introduced in the Joint Committee on Economic Development this week known as the Kansas Tourism Corporation Act would create the Kansas Tourism Corporation, a new entity separate from the Department of Commerce. The purpose of this new corporation would be to provide for collaboration between public and private organizations responsible for influencing tourism spending and growing the Kansas economy by enhancing the tourism sector. The bill also creates a new travel and tourism development fund to be used in furthering the initiatives of the corporation.

### **SB 493 State-wide Smoking Ban**

The Senate Judiciary Committee introduced a bill this week that would create a state-wide smoking ban, but require a November general election vote in every county to opt into the ban in public places within those counties. In the past, it has been local responsibility to call for a referendum on a ban.

### **Senate Bill 417 Housing Development Grant Program**

B 417, as amended, provides \$4.0 million annually for housing grants. The Kansas Housing Resources Corporation of the Kansas Development Finance Authority is designated to implement and administer a grant program for cities. The program will be incorporated into the Rural Housing Incentive District Act and several modifications will be made in KSA 12-5241 et seq. to reflect the statutory changes proposed in the bill. The bill allows cities located in a disaster area to designate an area as a rural housing incentive district, without conducting a public hearing or receiving approval from the Secretary of Commerce, as is required by current law. The bill initially limits grants to cities in designated disaster areas until June 30, 2010. On and after July 1, 2010, grant funds would be available for rural cities meeting only a population requirement until June 30, 2015. In order for a city to be eligible to receive a grant, it would have to provide matching funds of at least 10.0 percent for construction or rehabilitation of infrastructure projects as defined in the bill, and at least 50.0 percent for any other type of projects. The bill limits grant awards to \$50,000 for single-family residential dwellings. Cities receiving grant money are required to submit annual performance reports to the Kansas Housing Resources Corporation regarding the use of grant funds. *SB 417 passed 35 yeas and 5 nays.*

### **HB 2186 Advertisement in the Adoption Industry**

A bill that would regulate the adoption industry in Kansas was considered by the Senate this week. HB 2186 would amend the law regarding adoptions to do the following:

- Require that any person who advertises that the person will adopt, find an adoptive home for a child or otherwise place a child for adoption be licensed by the State of Kansas in such person's profession.
- Require such person's professional license number to be in the advertisement.
- Prohibit the advertising requirements from applying to an individual seeking to adopt a child.
- Make violations of the requirements be punishable as an unclassified misdemeanor with a fine of up to \$5,000 for each violation.

*HB 2186 passed 39 yeas and 1 nay.*

### **SCR 1616 Uninsured Motorists Task Force**

A concurrent resolution by the House and Senate proposed this week creates a task force to study the design and implementation of an electronic system that verifies compliance with state insurance requirements. The task force must determine:

- The likelihood that such a verification system will reduce the number of uninsured motorists;
- The likelihood that the system will aid law enforcement in the identification of uninsured motorists;
- The reliability of the system;
- The cost-effectiveness of the system;
- Privacy protections; and
- The data security and integrity of the system;

The task force consists of 18 members, including the commissioner of insurance, the secretary of revenue, the director of the division of motor vehicles, and other appointed members.

*SCR 1616 passed unanimously.*

### **SB 379 Construction Contracts**

A bill from the Senate Committee on Judiciary modifies state law on construction contracts. SB 379, as further amended, amends the law on an indemnification provision in construction contracts or other agreements. The bill:

- Prohibits a provision in a construction contract or other agreement which requires the first party to secure against damages or losses caused by the second party's intentional acts or omissions. Such provision is against public policy and would be void and unenforceable; and
- Prohibits a provision in a construction contract, which requires the first party to provide liability coverage to the second party, as an additional insured, for the second party's negligence, intentional acts, or omissions. Such provision is against public policy and would be void and unenforceable.

*SB 379 passed with 34 yeas, 2 passes, and 4 nays.*

### **SB 447 Agricultural and Specialty Chemical Remediation Act**

SB 447 makes several amendments to the Agricultural and Specialty Chemical Remediation Act which is designed to encourage remediation of pollution caused by agricultural chemical contamination. One amendment modifies the maximum total amount of reimbursement for eligible corrective action costs. Specifically, this amendment limits the total reimbursement to \$400,000 per site within a five year

period when the property has been sold or leased and both the buyer and seller or lessee and lessor are responsible for remediation. As with the other maximum amounts of reimbursement currently set by law, the new limitation could be modified by the Kansas Agricultural Remediation Board through rules and regulations. In addition, the bill:

Imposes, in addition to the other assessments already established by law and credited to the Agricultural Remediation Fund, an annual assessment of \$1,000 to be paid by the party responsible for a site that has been sold or leased when the seller or lessor still retains responsibility for cleaning up the site. As with the other assessments under the Act, this assessment would be paid to the Secretary of Agriculture;

Requires that in order for a site to be eligible for reimbursement, that all applicable environmental assessments be paid for the site; and

Extends the sunset of the Act from July 1, 2010 until July 1, 2020.

The bill states that the Department of Agriculture and the Department of Health and Environment believe the bill would have no fiscal effect on their agencies, although the changes allow more responsible parties to be able to obtain reimbursement for remedial actions taken at contaminated sites. The annual assessment charged by the Department of Agriculture is considered a deposit for the remedial program, so the additional assessment charged to former owners or lessors would have a negligible fiscal effect.

*SB 447 passed unanimously.*

### **SB 515 - Energy**

This is an electricity generating facility bill that was filed in both the House and the Senate. In the Senate, it is SB 515 and the House it is HB 2711. This is a compromise between the position of the Administration and the need for Kansas to have additional base load generation and for Western Kansas, especially, to have economic development. If this project is successful, it will establish the possibility of 3,000 megawatts of wind energy being constructed in Western Kansas for delivery to the Western grid, that is the western half of the United States. It would establish the possibility of approximately 1,500 megawatts of wind energy from Western Kansas to be delivered to the eastern grid, or the Eastern half of the United States. I think this is an exciting bill, it is bi-partisan and it is bi-cameral. Chairman Holmes of the House Energy and Utilities Committee and his ranking minority member, Representative Annie Kuether, spearheaded the introduction in the House. On the Senate side, Senator Janis Lee, who is the ranking minority on Senate Utilities, and I spearheaded the introduction of the bill. The bill provides for several things. The first is energy efficiency in state owned buildings, as well as greater fuel efficiency in all state owned automobiles. Secondly, it prohibits the expansion of, or construction of, any merchant fossil-fuel burning electricity generating plant. That means if it has a nameplate rating of greater than 300 megawatts it cannot be constructed if it intends to sell more than 50% of its output to someone other

than its retail customers, in other words its utility customers. Thirdly, it creates an electric generation transmission and efficiency study commission, which has a two year life span. Many of you know that the Kansas Energy Council exists and has existed for many years with the purpose of establishing sound energy policy for the state. The Commission would actually look at economic impact of generation transmission and distribution of electricity on the communities and on the customer rates: What sort of fuel portfolio is appropriate for electricity generating facilities? What kinds of incentives are appropriate for renewable energy investment? What is the impact of conservation on the need for expansion of electricity generating capacity and the impact of tax incentive on various means of generating and transmitting electricity?

The next aspect of the bill is CO limitations. This is an extremely important part of the bill. It limits the amount of CO that can be emitted after the first year of operation to 1,520 pounds per net megawatt hour. After ten years, that will drop to 1,330 pounds per net megawatt hour. That will make this a cleaner plant than any coal plant in the State of Kansas and almost any gas fired plants in the State of Kansas. Few plants would have a lower emission rate than what is in this proposed legislation. There would be offsets that a company could have if it were not able to meet the standards in the Act. Those offsets would include such things as: capture, storage and displacement, or, of course, finding new technology that would lower the amount of CO , being produced, minimum till or no till agricultural practices; transmission that would enhance the development of renewable resources in Kansas; research and development for carbon capture displacement or sequestration technology; energy conservation programs; a credit would be given for a more polluting unit being taken permanently out of service, provided the unit used the same fuel source as a new unit. These offset credits could be sold, traded or exchanged. Excess CO emissions that were not mitigated in one of the foregoing manners would be subject to being taxed at a rate of \$3.00 per ton, and that money would be used to establish an energy efficiency grant program within the State of Kansas.

The next portion of the bill is net metering for solar energy. This would be for small solar energy generating units of a maximum capacity of 100 kilowatts that are on the customer premises and controlled by the customer for the purposes of offsetting the customer's electricity needs. In other words, it would not be a commercial facility.

Finally, the bill would enact regulatory reform, and that regulatory reform would establish that the Secretary of Health and Environment could not issue any regulations that were more stringent than Federal regulations regarding clean air under the Federal Clean Air Act.

## **SB 425 School District Investments**

SB 425 amends existing law related to the investment of public moneys. The bill:

- Adds "school districts," to the list of municipalities allowed to invest in the manner prescribed in the bill.
- School district investments are regulated under K.S.A. 12-1675, which this bill amends to allow school districts to invest in federal agency securities. This bill also allows school districts to invest in securities with maturities of four years, whereas under current law, they are limited to maturities of two years.

*SB 425 passed with 37 yeas and 3 nays.*

## **SB 482, 483, 484 Drug Sentencing**

Three bills were introduced in the Senate Judiciary Committee aimed at giving judges another option when sentencing drug addicts who commit other crimes. Currently, judges must choose whether to send a drug addict to prison where they will get no treatment for their addictions or to a treatment facility where they will go unpunished for their crimes. New legislation could give judges a third option to sentence people convicted of certain crimes to a term of intensive drug rehabilitation in a state drug-treatment prison where they could undergo treatment while serving their sentences. The purpose is to try to break the cycle of addiction, and at the same time ease the burden these individuals place on county jails. The bills will be considered by the Judiciary Committee Wednesday and Thursday of next week.

## **SB 491-Prescription Monitoring**

This bill requires the state board of pharmacy to establish and maintain a prescription monitoring program (PMP) to monitor scheduled substances and drugs of concern dispensed in this state. A PMP would: Confirm whether or not 'doctor shopping' is taking place in Kansas; Refer patients for substance abuse treatment; and have useful information about new patients and established patients

An important funding source for this program is the Harold Rogers Grant Program. The bill will be heard in the Committee on Public Health and Welfare.

## **SB 487 Sales Tax Treatment of Hunting Fees**

The Senate Committee on Assessment and Taxation heard testimony from the Department of Revenue (DOR) on their recent self-audit of businesses involved in providing hunting services. The DOR has interpreted K.A.R. 92-19-22b(a)(1) to say they have the authority to collect sales tax on this service and sent out notices to all related businesses informing them of such. SB 487 was introduced into the Senate

Committee on Assessment and Taxation that would grant hunting and hunting service providers a sales tax exemption. A hearing on SB 487 was held this Thursday, and the bill is expected to come out of committee next week.

## **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 know of others who would like to receive this newsletter, [have them visit my website](#) and subscribe to my mailing list. If you are receiving this newsletter via email and would like to be taken off my list, just click on the "Unsubscribe from this list..." link at the bottom of this message.

**[Have a question? Contact me](#)**

NOTE: I receive many emails and I need to make certain I am responding to my constituents and not to somebody in another part of the state. I want to be responsive to you, so please include your street address so that I know I am being responsive to my constituents. My legislative district includes: Barton, Dickinson, Ellsworth, Lincoln, Marion, McPherson and Rice counties.