

Senator Jay Emler

Kansas Senate District 35



From the Desk of Jay Scott Emler

February 25 - February 29, 2008

The first deadline of the legislative session, turnaround, was this week. This required all bills, from non-exempt committees, to be out of their chambers of origin. As a result, the Senate worked all day on the floor Thursday debating and voting on bills in order to send the measures to the House for its consideration.

SB 453 - Kansas Commission on Rural Policy:

SB 453 establishes the Kansas Commission on Rural Policy and creates a Division of Rural Development within the Department of Commerce. The Commission will be tasked with developing recommendations for rural economic development based on four pillars:

- Fostering leadership and leadership development in rural communities;
- Retaining and encouraging the youth of rural communities to return to their communities to live, work and raise their families;
- Promote and finance rural entrepreneurship; and
- Retention of the wealth that will leave communities if people don't return and make their home communities their residence.

This bill was brought forward and promoted by rural communities, farm organizations as well as the League of Kansas Municipalities and Kansas Association of Counties. SB 453 passed the Senate 40-0.

SB 458 - Immigration Reform Bill:

The Senate Committee on Federal & State Affairs began hearing testimony regarding immigration reform and attempting to identify and address areas state government can affect. Several items of interest are:

- Employers who knowingly hire and employ groups or individuals who are in this country illegally
- Individuals who transport or assist in transporting individuals who are in the United States unlawfully

This debate will continue into the second half of the 2008 Legislative Session as Senators work to establish good and enforceable state policy.

SB 575 - Prohibiting Public Funds for Candidates:

SB 575 addresses the use of public property to expressly advocate the nomination, election or defeat of a clearly identified candidate. The bill expands the current restriction on the use of public funds, vehicles, machinery, equipment or supplies by a public officer or employee to all municipalities as well as the state of Kansas and the specific municipalities currently covered by the law. SB 575 further restricts by prohibiting any municipality from allowing any person to distribute express advocacy political brochures or other documents in any structure owned by the municipality, unless each candidate for the office concerned is provided the same opportunity. SB 575 passed the Senate 39-1.

HB 2622 - Vehicles & License Plate Display:

HB 2622 prohibits a Kansas registered vehicle from affixing a registration plate of another state on the front of the vehicle. Sometimes when individuals move to Kansas from other states they bring their license plates from their previous state and place it on their Kansas vehicle. The bill originated from Kansas state highway patrolmen and police who found it difficult to find vehicles of interest that were displaying out-of-state tags in the front. License plates issued to a truck tractor, model year license plates and personalized license plates affixed to the front of a passenger vehicle will continue to be lawful. HB 2622 passed the Senate 40-0.

SB 474 - Wildlife Parks & Controlled Shooting Areas:

SB 474 amends current law to allow field trials to be conducted on a licensed controlled shooting area without a permit. Additionally, a non-resident who is participating in a field trial for dogs will not have to have a hunting license if the field trial is not conducted on a controlled shooting area. In addition, the bill adds prairie dogs to the list of animals for which a person does not need a license to hunt. SB 474 passed the Senate 40-0.

SB 492 - Teachers Licenses:

SB 492 repeals current law which makes any person who has been convicted of driving under the influence of alcohol or drugs when the violation is punishable as a misdemeanor ineligible to acquire a teaching license in Kansas. In short, prior to SB 492, teachers who have been convicted of D.U.I were given a lifetime ban from receiving a teaching license. With the passage of SB 492, the State Board of Education now has the authority to decide if a license should be issued based on the situations in individual cases. A floor amendment was adopted that allows a board of education in a local school district to approve or disapprove of material that is obscene. SB 492 passed the Senate 31-9.

SB 414 - Creation of District Attorney (DA) Districts:

SB 414 allows two or more contiguous counties that have a five-year average of 150 felony caseload filings to establish a district attorney office. If a majority of voters in each of the counties approves the establishment of a district attorney office, the state will pay the salary of the DA. This allows some off-loading of expense for rural counties with lower total appraised values. Additionally, in areas where crime figures are higher, it will allow for the state to provide a higher salary and attract more possible candidates to be hired. SB 414 passed the Senate 40-0.

SB 545 - Civil Procedure & Health Insurance Coverage:

SB 545 amends existing law concerning child health insurance coverage in divorce situations. Specifically, if the divorce decree includes a provision for child health insurance coverage, the bill authorizes the court to order each parent to provide all information and the release of information to each parent so that both parents can communicate with the health insurance provider, no matter which parent provides the insurance coverage. SB 545 passed the Senate 40-0.

SB 581 - Possession of Alcohol by Juvenile Offenders:

SB 581 would change the definition of a juvenile offender who purchases, attempts to purchase, possess, or consumes alcohol. Currently, a juvenile offender is a person who is between the ages of 10 and 18 years. SB 581 would change the age of juvenile offenders to between 14 and 18. Prior to the re-codification of the Juvenile Justice Code, the jurisdiction for the crime of minor in consumption was with the Municipal and District Courts. The re-codification of the Juvenile Justice Code changes the jurisdiction to the Juvenile Courts. SB 581 passed the Senate 40 - 0.

Sub SB 549 - Continued Quality Improvement:

SB 549 creates a new statute that is part of The Pharmacy Act of the State of Kansas, as well as amending an existing statute that concerns nonresident pharmacies. The new statute requires each pharmacy in Kansas to establish a Continuous Quality Improvement Program (CQI). The purpose of the new program is to assess errors in dispensing or furnishing prescription medications so that the pharmacy may take appropriate action to prevent a recurrence of any errors. The bill amends an existing statute to add authority for the Board of Pharmacy to assess a civil fine against any nonresident pharmacy for each violation when a nonresident pharmacy fails to supply information requested by the Board or to respond to an inquiry after being noticed by certified mail. Sub SB 549 passed the Senate 39-1.

SB 512 - EMS Attendant's Certificate Requirements:

SB 512, as amended, deals with certification of emergency medical attendants. The bill allows the Emergency Medical Services Board to grant an emergency medical attendant certificate if such applicant has:

- Successfully completed a course of instruction;
- Worked as required by the rules and regulations of the Emergency Medical Services Board; and
- Successfully completed course work in another jurisdiction that is substantially equivalent to that required by the rules and regulations adopted by the Board.

Under the bill, the Board is allowed to grant a temporary attendant's certificate if:

- The applicant is certified or licensed in another jurisdiction, but whose course work is not substantially equivalent to that required by the Board. The temporary certificate will be valid for one year or until the applicant has completed the course work; and
- The applicant has completed the course work and has taken the required examination, but has not received the results of the examination. The temporary certificate will be valid for 120 days from the date of the examination.

Under the bill, any applicant who has been granted a temporary certificate will have to be under the direct supervision of a physician, a physician's assistant, a professional nurse, or an attendant holding a certificate higher or equivalent to that of the applicant.

Also, the Board is allowed to deny, revoke, limit, modify, suspend, or refuse to renew a certification if the applicant:

- Has made intentional misrepresentation in obtaining or renewing a certificate;
- Has demonstrated incompetence or engaged in unprofessional conduct;
- Has violated any rules or regulations of the Board; or
- Has been convicted of any state or federal crime related to the qualifications, functions, or duties of a certified attendant or been convicted of a felony and the Board determines that such individual has not been sufficiently rehabilitated to warrant public trust.

SB 512 passed the Senate 40 - 0.

SB 415 - Post-Secondary Education & Deferred Maintenance

SB 415 amends current law concerning the State Educational Institution Long-Term Infrastructure Maintenance Program. The bill eliminates duplicate reporting to the Joint Committee on State Building Construction by the Board of Regents and the universities before funds could be expended for deferred maintenance projects under the Program. In addition, the bill removes the \$20.0 million annual cap on the bonds authorized under the program and increases the total aggregate amount of the bonds, currently at \$100.0 million, by \$4.0 million for each of the four technical schools and Northeast Kansas Technical College once the Board of Regents certifies that the institutions has achieved substantial compliance with its Board approved plan to merge or affiliate with a post-secondary educational

institution or become an accredited technical college with an independent governing board. The technical schools will be given first priority in accessing the additional bond funding, and any bond funding remaining will be reallocated to other post-secondary educational institutions. The bill also expands the tax credits for each of the four technical schools and Northeast Kansas Technical College once the Board of Regents certifies that the institutions has achieved substantial compliance with its Board approved plan to merge or affiliate with a post-secondary educational institution or become an accredited technical college with an independent governing board. The technical schools will be limited to the tax credits allowed for community and technical colleges in that fiscal year by the program. In tax year 2008 that amount is \$78,125. In addition to the expansion, the bill deletes the limitation per individual institution and instead allows the Board of Regents to allocate the tax credits for all community colleges and technical colleges and schools, with not more than 40.0 percent of the total credits allowed to be allocated to any one community college, technical college, or technical school. Finally, the bill amends current law to allow the universities to retain interest from their clearing funds, health fee funds, and service clearing funds. The interest will be deposited in each individual institution's deferred maintenance support fund for expenditure on deferred maintenance projects under the program. SB passed the Senate 36 - 4.

Sub SB 501 - Kansas Tourism Corporation

Substitute for SB 501 establishes the Kansas Tourism Corporation (KTC) as an independent government agency similar to the Kansas Bioscience Authority or the Kansas Turnpike Authority. The purpose of the KTC is to provide for a collaboration of public and private organizations responsible for influencing tourism spending and growing the Kansas economy by enhancing the visitor experience through targeted marketing, product development, professional development and research. The bill also provides that the Division of Travel and Tourism of the Kansas Department of Commerce is transferred to the KTC on January 1, 2009 with all statutory references to the Division replaced with KTC. The Kansas Tourist Attraction Evaluation Committee and the Kansas Council on Travel and Tourism are eliminated with passage of the Act. Sub.

SB 501 passed the Senate 33 - 7.

Sub SB 596 - Board of Healing Arts

Sub. for SB 596 adds a definition of surgery to the section of the Kansas Healing Arts Act that defines terms used in the act. Under the new definition, surgery means the use of any device, procedure, or method to sever, remove, destroy, or structurally alter body tissue or implant any device, object, or tissue into the body of human beings for any purpose, including preserving health, repairing injury, reducing closed or open fractures, correcting deformity or defects, prolonging life or relieving suffering, or for an aesthetic, reconstructive, or cosmetic purpose. Surgery is not to be construed to include manipulation for adjustment of misplaced tissue or acupuncture. The bill also amends a statute that defines those persons who are deemed to be engaged in the practice of medicine and surgery (MDs and DOs) to include persons who perform any surgical operation by the use of any surgical instrument,

procedure, equipment, or mechanical device for an aesthetic or cosmetic purpose. SB 596 passed the Senate 40 - 0.

SB 498 - Insurance & Penalty Amounts

SB 498, as amended, increases the penalties associated with the failure to provide required reports and other information to the Insurance Commissioner, as required by statute. The bill allows the Commissioner, after notice and opportunity for hearing, to impose, in addition to any other penalty provided by law, a civil penalty in the amount fixed by the Commissioner's rules and regulations. The amount will be no less than \$500 and no more than \$5,000 for each violation and, in the case of a continuing violation, every day the violation continues, will be deemed a separate violation. Under current law the penalty for each violation is an amount of up to \$500, along with an additional penalty to be assessed on a weekly basis until the receipt of the information in an amount up to \$100. SB 498 passed the Senate 40 - 0.

SB 443 - Long-term Care Partnership Program

SB 443, as amended, enacts the Long-Term Care Partnership Program Act, an act requiring the Kansas Health Policy Authority, in conjunction with the Kansas Insurance Department to establish a long-term care partnership program in Kansas to provide for the financing of long-term care through a combination of private insurance and medical assistance. The bill allows individuals who are beneficiaries of a Kansas Long-Term Care Partnership Program policy to be eligible for assistance under the state's medical assistance program (Medicaid) using the asset disregard. The bill creates requirements for state agencies and insurance companies who offer partnership policies. A "long-term care partnership program" is defined by the bill to mean "a qualified state long-term care insurance partnership as defined in section 1917(b) of the Social Security Act, 42 U.S.C. 1396p" (Deficit Reduction Act of 2005 amendment (DRA)). Long-term care policies issued prior to April 1, 2007 cannot receive the partnership designation. The bill requires the program to:

- Provide incentives for individuals to insure against the costs of providing for their long-term care needs;
- Provide a mechanism for individuals to qualify for coverage under medical assistance while having certain assets disregarded for eligibility determinations and recovery; and
- Reduce the financial burden on the state's medical assistance program by encouraging the pursuit of private initiatives.

Additionally, the act provides for dollar-for-dollar asset protection for individuals who are beneficiaries of qualified long-term care partnership policies (after the effective date of the state plan amendment or after the issue date of an exchanged policy). The bill requires four state agencies - the Kansas Health Policy Authority, the Department of Social and Rehabilitation Services, the Kansas Department on Aging, and the Kansas Insurance Department - to post on their websites information on how to access the

National Clearinghouse established under the DRA, when the clearinghouse becomes available to consumers. Among the responsibilities assigned to the Insurance Commissioner, the Commissioner must determine the level of inflation protection reasonably necessary to protect individuals who purchase a Kansas partnership policy. The bill also establishes requirements for insurance companies who issue policies in Kansas to provide regular reports to the US Department of Health and Human Services, the Kansas Health Policy Authority, and the Insurance Commissioner. Insurance companies providing the partnership policies also must advise consumers of the benefits associated with the partnership policies, submit a form certifying the partnership policies, verify producers are receiving the training required before the sale of the products, and maintain records regarding training (which must be made available to the Insurance Commissioner upon request). Finally, the bill permits the Insurance Commissioner to promulgate rules and regulations necessary to carry out the provisions of this act. SB 443 passed the Senate 40 - 0.

SB 399 - School Districts & Kindergarten

SB 399 mandates the attendance of half-day kindergarten and amends the compulsory school attendance law to lower the age at which children are required to attend school in Kansas from the age of seven years old to the age of six. Children are exempt from the requirement if they are members of a religious denomination objecting to their attendance in kindergarten, or if a written statement signed by a parent or person acting as a parent of the child requesting an exemption is filed with the local school district board where the child resides. SB 399 passed the Senate 36 - 3.

SB 580 - Housing & Weatherization Assistance Program Account

SB 580 establishes the Weatherization Assistance Program Account within the State Housing Trust Fund. Funding within the account will be administered by the Kansas Housing Resources Corporation (KHRC), which is a subsidiary of the Kansas Development Finance Authority. This program provides weatherization grants to low income homeowners to increase housing energy efficiency. The bill finances this new program with an annual \$2.0 million transfer from the State General Fund. SB 580 passed the Senate 40 - 0.

SB 588 - Contraband Trafficking in a Correctional Facility

Under current law, it is illegal to traffic in contraband at any state correctional facility, conservation camp, state security hospital, juvenile correctional facility, community correction facility, or juvenile detention facility. SB 588 makes trafficking in contraband at any facility operated by the Department of Social and Rehabilitation Services that is used to treat sexually violent predators also illegal. The Kansas Sentencing Commission estimates that the passage of SB 588 has an effect on adult prison beds in FY 2009; however, because there is no data on which to build an estimate, a fiscal effect cannot be determined. If the bill contributes to an increase in the inmate population sufficient to require additional facility capacity, one-time construction and equipment costs will be needed. The 2007 Legislature

authorized a \$39.5 million bond package that included prison expansion projects at El Dorado Correctional Facility, Yates Center, Ellsworth Correctional Facility, and Stockton which will be used when the Secretary of Corrections determines one or more of the projects are necessary. In addition, annual costs to staff and operate the additional capacity would be required. SB 588 passed the Senate 40 - 0.

SB 582 - DUI & Ignition Interlock and Impoundment

SB 582 repeals driving under the influence (DUI) provisions relating to impoundment of motor vehicles. SB 582 also grants a municipal court jurisdiction over DUI violations which the district court also has jurisdiction over, as long as the elements of violation are the same as described in this bill and they constitute a felony. This bill affects violations committed after the bill takes effect, but also will be retroactive for violations committed after July 1, 2006. SB 582 passed the Senate 40 - 0.

B 562 - Mobile Polling Places

SB 562 establishes that, beginning on January 1, 2010, every nursing facility, assisted living facility and long-term care unit may serve as a voting place for its residents who are registered to vote. Specifically, the bill:

- Requires the county election officer to contact the administrator of each such facility, at least 60 days before any election, to request that the registered voters in the facility be offered the opportunity to vote there. If the administrator agrees, a mutually agreed upon date for the voting will be established.
- Requires the county election officer to appoint a special election board to administer the ballots to the residents of a participating facility. Qualifications for the board, consisting of two or more members, are established in the bill.
- Requires the special election board for each participating facility to follow advance voting procedures, to the extent practicable.
- Permits any facility resident who is a registered voter to request a ballot from the special election board. The special election board may deliver an advance ballot to any voter who has received permanent advance voting status, instead of mailing the ballot.
- Permits any voter to receive assistance from a special election board member or from a person of the voter's choice, if the person rendering assistance signs a written statement as required by law.
- Requires the special election board to protect the privacy of each voter and seal each ballot in an envelope or deposit it in a locked ballot box. Security measures also will be required when direct recording electronic voting systems are used. Voting materials must be returned to the county election officer at the close of voting at the facility. Tabulation procedures are specified in the bill.

- Defines the terms “assisted living facility”, “long-term care unit”, and “nursing facility”.

SB 562 passed the Senate 40 - 0.

Sub 383 - Property Taxation & Exemptions on Certain Housing

ub. for SB 383 expands, retroactive to tax year 2005, a property tax exemption for certain property used for housing elderly, disabled, or low-income persons. While current law generally authorizes the exemption for property owned and operated by not-for-profit community housing development organizations, the bill also authorizes the exemption when the property is owned and operated by certain limited partnerships, limited liability companies, or corporations formed to develop low-income housing. Low-income housing is specifically defined to mean “housing for persons with income at or below 80 percent of area median income.” To qualify for the exemption, the development organization is be required to utilize certain federal income tax credits, the home investment partnership program, or other funding sources available for low-income housing. The sole general partner, sole managing member, or the corporation itself further are required to be a not-for-profit organization recognized as “charitable” by the Internal Revenue Service. Sub 383 passed the Senate 40 - 0.

SB 615 - Kansas Automobile Injury Reparations Act

SB 615, as amended, amends the Kansas Automobile Injury Reparations Act (KAIRA). The bill:

- Authorizes a court to order that a convicted person’s motor vehicle be impounded or immobilized for up to 30 days for failure to maintain financial security or liability insurance;
- Prior to impounding or immobilizing a motor vehicle, the court is required to consider whether it would cause the owner or a member of the owner’s family to experience a loss of employment or whether someone would be impaired from seeking medical care or attending school;
- The owner is allowed to retrieve personal property from the motor vehicle prior to or during the impoundment or immobilization;
- If the motor vehicle is leased, and the lease expires prior to the expiration of the impoundment or immobilization period, the motor vehicle could be removed at the end of the lease.
- Prohibits the owner of a motor vehicle from recovering the first \$5,000 of property damage to his or her motor vehicle if the owner failed to maintain financial security on the vehicle. Any money not paid by insurance companies to the vehicle owners will be paid to the Attorney General, who will credit the money to the Crime Victims Compensation Fund;
- Exempts a lien holder from the prohibition from recovering for property damage to a motor vehicle.

SB 615 passed the Senate 31 - 8.

SB 586 - State Corporation Commission

SB 586 allows the Kansas Corporation Commission (KCC) to authorize an adjustment to an electric utility's rates to recover the utility's prudent expenditures for study and feasibility costs for a new nuclear generation facility, subject to review by the KCC. The bill also allows an electric utility that receives a license to operate a nuclear generation facility on or after July 1, 2008, to use a book depreciable remaining life of not more than the amount of time remaining on the facility's operating license. In addition, the bill allows the costs of construction for a nuclear generation facility to be included in the customer rate base before the facility is operational. SB 586 passed the Senate 32 - 8.

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