

Senator Jay Emler

Kansas Senate District 35



From the Desk of Jay Scott Emler

Week of February 9 - 13, 2009

2009 Rescission bill:

The Conference Committee on House Sub for Sub SB 23 completed its work earlier this week. The compromise provided \$201.8 million in cuts, along with \$123.8 million in revenue adjustments. This agreement leaves an ending balance of \$126.5 million for the fiscal year.

On Thursday, February 12, the House and Senate both agreed to the conference committee report. The Senate vote was 27 to 11. Work has already begun on the Fiscal Year 2010 budget with budget subcommittees meeting and making recommendations to the Ways and Means Committee.

2009 Senate Comprehensive Energy Plan:

On Thursday, February 12 the 2009 Senate Comprehensive Energy Plan was introduced in the Senate Ways and Means Committee. Hearings will be on Wednesday, February 18. Please [see the attached document for more information on the Comprehensive Energy Plan.](#)

Turnaround Information:

Monday, February 23 is the official turnaround day. Bills must be passed out of committee by noon on Wednesday, February 18 in order to be read into the Senate during the afternoon session. Legislation not passed out of committee, other than exempt bills, will be dead for the session.

Smoking Ban:

The Senate will likely debate SB 25, the statewide smoking ban, on Monday, February 16.

SB 26- Drug Crimes:

The bill amends current felony sentencing statutes by enhancing penalties on drug crimes if the offender carries, brandishes, or discharges a firearm during a drug crime. For possessing a firearm, 12 months will be added to the offender's sentence. An additional 15 month penalty will be given to those who brandish a firearm while committing a drug offense. Discharging a firearm will result in a sentence of 24 extra months in prison. **SB 26 passed 33 to 6.**

SB 31- Behavioral Science Continuing Education Requirements:

SB 31 requires all baccalaureate, master, and special clinical social workers to undergo at least six hours of social worker training, including self protection exercises, before renewing their license for the first time. Effective January 1, 2010, those who have received training a part of earlier training for license renewal are not required to complete additional training. The fiscal note estimates the bill would have approximately \$2,650 in administrative costs to the Behavioral Sciences Regulatory Board. **SB 31 passed 32 to 8.**

SB 33- Board of Pharmacy:

The measure allows the State Board of Pharmacy to require the that applicants be fingerprinted and submit to state and national criminal background checks before a license, registration, permit, or certificate is issued or reinstated. In addition, the measure increases the number of board members from six to seven. Of the seven, six must be licensed pharmacists. The term of each member, effective, July 1, 2009, is extended by one year making the duration four years. **SB 33 passed 35 to 5.**

SB 55- Official Federal Services Absentee Ballots:

The bill makes changes to current campaign finance law regarding overseas absentee voters, campaign finance report delivery, and campaign fund transfers. Currently, overseas absentee ballots exclude local questions, state constitutional amendments, and political party precinct committee positions. SB 55 eliminates these restrictions so local and state issues can be placed on the ballots. In addition, the bill deletes the options of express mail or hand delivery for filing last-minute campaign finance reports. Finally, political candidates will be allowed to transfer campaign funds from one state or local campaign to another state or local campaign of the candidate. **SB 55 passed 37 to 1.**

SB 56- Advance Voting Ballots:

SB 56 changes existing law by requiring individuals who have another person deliver their completed ballot by mail or in person to designate who the individual is on the ballot envelope. Also on the envelope, the voter must state the deliverer did not influence their vote. The advance ballot must be returned to the county election office within two business days of receiving the advance ballot or before the close of polls on Election Day. **SB 56 passed 29 to 9.**

SB 66- District Courts:

The measure amends existing law on document transfers regarding a change in venue for persons who are mentally ill or undergoing treatment for drug or alcohol abuse. In the bill, district courts are authorized to send an electronic copy of the case file to the receiving district court; send an electronic copy of the transferring venue order to the treatment facility where the patient is being detained, evaluated, or treated; and send a fax or electronic copy of the entire case file to the patient's county of residence if not the receiving county. **SB 66 passed 39 to 0.**

SB 68- Prosecuting Attorneys' Training Fund:

The bill increases the amount of the district court docket fee allocated to the Prosecuting Attorneys' Training fund from \$1.00 to \$2.00. **SB 68 passed 24 to 14.**

SB 71- Elections:

SB 71 mirrors current campaign finance law for political candidates by requiring groups who are formed to promote the defeat or success of a local question to report contributions and receipts received.

SB 71 passed 38 to 0.

SB 73- School finance:

The bill provides an alternative formula to school districts for calculating the local option budget. School districts are authorized to calculate a local option budget using a base state aid per pupil (BSAPP) of \$4,433 for school years which have a BSAPP less than that amount. The bill also allows schools to also calculate a local option budget for state aid for the 2008-2009 school year for special education and

related services. **SB 73 passed 38 to 1.**

SB 91- Development Rights:

The measure extends the endowment rights period from five to 10 years for developers. If 35 percent of planned work on a residential development has not been completed within 10 years of the issuance of necessary permits, the development rights will expire. **SB 91 passed 36 to 3.**

SB 95- Correctional Institution Contraband:

SB 95 expands the crime of contraband traffic in a correctional institution to include any care and treatment facility where contraband is illegal. The bill includes state security hospitals or facilities operated by SRS. Contraband is defined in the bill as a firearm, ammunition, explosive, or controlled substances. **SB 95 passed 36 to 2.**

SB 97- Liquor Enforcement Tax:

The bill clarifies the powers of the Director of Alcoholic Beverage Control regarding the revocation or suspension of licenses, the ability to levy fines against those who fail to file and pay liquor enforcement taxes in a timely manner. The fiscal note on the bill does not have a significant impact on state tax collections. **SB 97 passed 40 to 0.**

SB 98- Refund Claims and Income Adjustments:

The measure clarifies the following income tax refund claim deadlines. Taxpayers have three years from the date of the original return due date, including extensions, to file a refund claim. The Department of Revenue has 180 days after receiving a revenue adjustment report to review additional tax. Finally, if a taxpayer fails to report a revenue adjustment in a timely manner the Department of Revenue can tax the 180 day period. **SB 98 passed 36 to 2.**

Ways and Means Committee update

The Committee continues its work by having bill hearings and working on the Fiscal Year 2010 budget.

On Monday, there were three bills introduced by Senator Kelly Kultala (D-Kansas City) related to

Workers Compensation (SB 250, 251, 258). Additionally, SB 248 and 255 were introduced.

The Committee received a report on the 2008 Debt Study by Steve Weatherford, Kansas Development Finance Authority. The report examined debt trends, along with projections which will assist legislators in making decisions on debt issuance. Total debt outstanding as of June 30, 2008, was \$61.5 million less than one year prior. Approximately, one quarter of all debt is supported by the State General Fund (SGF).

The Committee also received an overview of child support enforcement and food stamps (Food Assistance Program) from SRS Secretary Don Jordan. Additional information was provided by Paul Johnson, Kansas Catholic Conference.

On Tuesday, the meeting was abbreviated so that Senators could attend the State of the Judiciary, given by Chief Justice Robert Davis.

During the Tuesday meeting, the Committee finished the hearing on SB 128-the Fatherhood Initiative Program. Testimony in support of SB 128 was provided by Senator Oletha Faust-Goudeau. Don Jordan, SRS, presented neutral testimony. The fiscal note estimates that the cost of the new program would be \$797,938 from all funding sources (\$748,042 SGF). The Committee also received an update on the Sexual Predator Treatment Program at Larned. The Committee had requested comparisons of other states' programming. The Committee is interested in balancing the residents' constitutional rights while utilizing cost efficiencies.

Senator Emler released budget guidelines for the Ways and Means Subcommittees on Tuesday. They included making a 10 percent reduction in FY 2010 from the FY 2009 Governor's revised amount. One provision in the guidelines is that agencies are to provide the subcommittees with a priority list and adequate description of the reductions. Agencies are also notified that the 10 percent reduction may not be sufficient to offset the economic downturn. The agencies are to prepare for additional reductions, from 3 to 8 percent.

On Wednesday, there were five bills introduced (four have been assigned numbers-SB 259-262).

SB 261 would have Kansas as part of a compact of states desiring to have the President of the United

States elected by popular vote. The bill was requested by Senator David Haley, D-Kansas City.

The Committee heard testimony on SB 187, which would allow the State Fire Marshal to appoint an employee of a state educational institution to inspect buildings, in conjunction with the Fire Marshal's Office. The Committee passed the bill out favorably.

The Committee received an update on grants and regional funding from Robert Waller, Board of EMS. The Committee also heard SB 221, which would authorize the Board to develop, implement, coordinate, and oversee a statewide EMS disaster response. Waller appeared as a proponent. There were a number of opponents from various local emergency response agencies. They indicated that the Board's duties are regulatory in nature. Senator Emler encouraged the conferees to continue discussions and provide the Committee with amendments at a later date.

On Thursday, the following bills were introduced: SB 264, 265, 266, 267, 274. SB 274, requested by Senator Lee (D-Kensington), would create the Kansas Scenic and Heritage Backroads Act. Senator Pat Apple (R-Louisburg) also requested introduction of the Comprehensive Energy Plan (SB 265).

The Committee began its work on the Fiscal Year 2010 budget by receiving the budget subcommittee recommendations on the Department of Corrections (DOC) and its facilities and the Juvenile Justice Authority (JJA) and its facilities.

Senator Vicki Schmidt (R-Topeka) gave the Juvenile Justice Authority report. Her subcommittee chose to apply a 10 percent reduction on the agency and the facilities. The report contained what reductions the agency has identified would be necessary to sustain the cut. Senator Lee filed a minority report, concerned about the implications of closing the Beloit facility, which serves female juvenile offenders. The Committee adopted the subcommittee's recommendations.

Senator Mark Taddiken (R-Clay Center) gave the Department of Corrections report. His subcommittee met prior to the finalization of Chairman Emler's subcommittee guidelines. The subcommittee made a 7.25 percent cut to the DOC and facilities' budgets. Secretary Roger Werholtz provided a complete list of reductions and closures that would have to be made to meet the subcommittee's cut. The Committee adopted the subcommittee's recommendations and there was discussion that the Committee may have

to make a larger cut.

The Committee had a hearing on SB 219, which would implement the Governor's recommendation for a nine-month moratorium on both state and local employer contributions to the KPERS Death and Disability Group Insurance Fund during FY 2010. At a later meeting on Thursday, the Committee amended the bill to advance the moratorium to March 1, 2009, incorporating action taken in the Fiscal Year 2009 rescission bill.

Summary of the 2009 Senate Comprehensive Energy Plan

The 2009 Senate Comprehensive Energy Plan, Senate Bill 265, was developed with bi-partisan support. It is based on previous legislation that was supported by more than 80% of the Senate. This plan addresses our state's growing energy needs through increased production of renewable energies, improved conservation of energy usage by state agencies and buildings, and clarifying emissions regulations.

Kansans expect and deserve an Energy Plan that doesn't drive up their energy costs and convinces businesses to expand or build new facilities in our state. Our bi-partisan plan includes policies that are good for the environment, businesses, and ratepayers

Good for the Environment: State policy should encourage the development and usage of renewable energy sources so they may begin to play a larger role in the overall solution to our energy requirement.

- Establish Renewable Portfolio Standard (RPS)
 - Require each public utility to include renewable energy sources in its generation portfolio to total at least: 10% by 2013; 15% by 2017; and 20% by 2021 of the public utility's peak load. This provision excludes municipalities.
- State Energy Efficiency Standards (EES): Require Secretary of Administration to adopt rules and regulations prescribing EES.
 - Applies to all new construction and to the extent possible, renovated state-owned buildings.
 - Requires design and construction achieve energy consumption levels that are at least 10% better than set national and international professional standards if they are life-cycle cost effective.
- Facilities Conservation Improvements Program (FCIP)
 - Encourage schools and local governments to improve their energy conservation through FCIP.

- Entity partners work with a private energy service company to identify and evaluate energy-saving opportunities and improvements to be paid for through savings.
- Energy Consumption Assessment
 - Direct the Department of Administration to collect data on energy consumption and cost for all state-owned and leased real property and report to the legislature areas of excessive use.

Good for Businesses: Establish consistent and predictable regulatory policy for Kansas to create a more business friendly climate that attracts and keeps new, well-paying jobs. Lenders have made it clear that it is simply impossible to provide potential businesses with financing if they are unable to trust that the state's policy and oversight will not be subject to regulatory uncertainty.

- State Emission Standards: Direct the KDHE to establish standards that are no more stringent, restrictive or expansive than those required under the Federal Clean Air Act.
 - This does not apply to parts of the State Implementation Plan developed to bring a non-attainment area into compliance.
 - Position Kansas to be in line with future national standards.
 - Missouri, Colorado and Oklahoma have legislation that is no more stringent.
 - Provides fairness when employers want to build or expand in Kansas.
 - Allows Kansas to be "Open for Business".
- Emergency Responses by KDHE: Clarify the KDHE Secretary use of emergency powers
 - KDHE Secretary may issue a temporary order upon receipt of evidence that emissions from air pollution pose an imminent and substantial endangerment to public health or welfare or to the environment.
 - The secretary must seek judicial review within 72 hours.
 - Gives aggrieved party immediate access to judicial review without exhausting administrative remedies.
 - Removes politics from of the process - making it clear the Secretary is responding to an emergency situation as was intended.

Good for Ratepayers: With the rising price of natural gas, and petroleum in general, it is important to find responsible and cost effective solutions for future energy requirements.

- Net Metering
 - Allows Kansans who produce their own electricity through solar sources to sell excess power their produce back to their utility company at a fair price.
- Previous Applications
 - Direct the KDHE Secretary to reconsider action taken on any application after January 1, 2006 that involves an air permit so needed energy is produce at affordable rates and meet future base load demand.

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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.

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