

Senator Jay Emler

Kansas Senate District 35



From the Desk of Jay Scott Emler

Week of March 2 to 6, 2009

Stimulus Update

On Wednesday, March 4, Chris Whatley with the Council of State Governments appeared before the Senate Ways and Means Committee to review the impact of the American Recovery and Reinvestment Act of 2009 (federal stimulus) on Kansas. Whatley reviewed the background of the legislation, funding opportunities, and legislative priorities resulting from the passage of the stimulus.

The state of Kansas is eligible for over \$1.27 billion in federal funding through FY 2011 and additional assistance could result through competitive grants. Up to \$1.75 billion in total funding is available to Kansas. The state will receive over \$483 million, through 2010, in flexible funding to supplant current state spending for Medicaid and the fiscal stabilization fund for education. Of the \$483 million, 90 percent of the funds will go to Medicaid and the remaining will be put toward assisting with education funding.

Guidelines are still being formed but funding is included in the stimulus bill to hold state education funding steady. The Recovery Act requires states to appropriate no less than what was allocated for FY 2006 for education. Once stimulus money is accepted by a state, that money must be used to bring education funds back to FY 2008 or FY 2009 levels, whichever is greater.

To supplement current state formula funding, Kansas may receive over \$1.27 billion for transportation, education, and other formula based programs. Additional funding opportunities are available for unemployment and energy efficiency, but both come with strings attached.

Included in the stimulus bill are the provisions of the Unemployment Modernization Act which requires

states to make permanent changes to their unemployment standards. Specific details have yet to be released by the Department of Labor but this provision has resulted in several Governors refusing to accept unemployment funding. For states who abide by the modernization requirements, \$68 million in funding is available for unemployment.

Kansas can get an additional \$40 million in the form of energy efficiency grants if the state adopts a utility rate system that encourages energy conservation and implements energy efficiency standards in building codes while holding utility companies harmless for loss of revenue resulting from reduced energy rates.

Over \$100 billion in competitive grant opportunities are available for states to apply for consideration of funds. However, there are more than 30 different grant categories with the largest amount dedicated to education incentive grants. The details are few, the programs are scattered, the requirements are confusing, and the impact of some programs will not be felt until after the expiration of the Recovery Act. Full guidelines for the grants are to be posted at by March 19.

One of the most problematic issues surrounding the stimulus package is the role of the legislature in the distribution of funds. Transportation dollars are required to be allocated by March 10 and the stimulus package is mute on the role of the legislatures. However, governors are given the power to handle certifications and requirements in distributing funds. This has caused a large amount of executive, legislative tension since several states require the legislature to allocate funding through appropriations to comply with the state constitution. Idaho, Maine, North Dakota, and Wisconsin have established procedures for legislative review or to appropriate stimulus funding. Governors have responded by issuing executive orders or by appointing "czars" to oversee the distribution of stimulus funds.

February Revenues

For the month of February, tax only revenues came \$12 million below projections. Revised consensus revenue estimates had predicted tax collections of approximately \$251 million for February but the actual amount was \$239 million.

Update on the SB 208, Abolishing the Death Penalty

On Wednesday, March 4, the Senate Judiciary voted to send SB 208 for further study during the interim.

On Thursday, March 5, the committee, on a motion to reconsider, voted 6 to 5 to favorably pass the bill out of committee. This bill is now up for consideration by the Senate.

SB 108- Economic Revitalization and Reinvestment Act

SB 108 revises the Economic Revitalization and Reinvestment Act to expand the definition of an eligible aviation business and to allow wind and solar energy manufacturing businesses to qualify for benefits.

Under the bill, aviation businesses that have an average annual gross Kansas compensation of more than \$150 million are eligible to the incentives provided in the Economic Revitalization Act. Wind and solar energy businesses that pay an average annual salary of at least \$32,500 and who are classified by the North American Industrial Classification System as being in the manufacturing sector can take advantage of the bond opportunities provided in the Act.

SB 108 passed 40 to 0 on Thursday, March 5.

SB 147- HIV Screening for Pregnant Women and Newborns

SB 147 requires physicians or other authorized professionals to screen pregnant women for HIV during the first trimester of a pregnancy. The bill allows for women to opt-out and refuse the screening at any time. If determined to be at high risk for HIV, a second screening would take place during the third trimester or at the time of labor and delivery.

For children born to mothers who did not consent to HIV screening, the child must undergo screening as soon as medically possible after birth. Parental consent is not required to screen the newborn but in instances where the screening conflicts with religious beliefs the child is exempt from the procedure.

The Kansas Department of Health and Environment estimates that 4,400 women would qualify for assistance for the screening at an annual cost of approximately \$17,000 to the Department.

SB 147 passed 37 to 3 on Thursday, March 5.

Senate Sub for HB 2014- Comprehensive Senate Energy Plan

HB 2014 enacts new law regarding energy efficiency standards of state-owned and leased spaces and equipment, amends law authorizing large electric cooperatives to be deregulated under certain

situations, creates renewable energy standards, enacts the Net Metering and Easy Connection Act, and amends portions of the Kansas Air Quality Act concerning the decisions and powers of the Secretary of Health and Environment.

Because HB 2014 is a combination of several energy bills, a comprehensive fiscal note is currently unavailable for this bill. *Senate Sub for HB 2014 passed 31 to 9 on Thursday, March 5.*

HB 2147- Removal of Vehicles from the Highway

HB 2147 requires the driver or owner of a vehicle involved in a non-injury, non-fatal accident to make a reasonable effort to move the vehicle out of the roadway if the vehicle can be safely removed without causing damage to the vehicle, roadway, other vehicles, or persons. Violators of the bill would receive a warning until July 1, 2010. After July 1, 2010, those who do not comply with the bill would be fined \$60.

The fiscal note from the Department of Transportation estimates approximately \$47,360 will be needed from the State Highway Fund for signage and educational pamphlets. In addition, the Department believes an increase in expenditure authority is needed for agency operations from the State Highway Fund. No estimate of the revenue generated from the fine is available.

HB 2147 passed 40 to 0 on Thursday, March 5.

Ways and Means Committee Update

On Monday, the committee heard reports from the subcommittees on the Kansas Department of Health and Environment. There were two bills introduced, SB 296 and SB 298. SB 296, requested by Senator Steve Abrams (R-Arkansas City), would establish a process to evaluate and implement federal stimulus funds.

There was also further discussion on SB 196. SB 196 deals with KPERS after retirement restrictions and would seek to apply the restrictions to retirants' employed by a third party entity.

Also on Monday, Katrin Osterhaus, Audit Supervisor, Division of Legislative Post Audit, gave an overview of the Low-Priority Programs Audit.

On Tuesday, the committee did not meet so that the time could be used for budget sub-committee meetings.

On Wednesday, there were four bills introduced, SB 299, 300, 301, and 302. The committee heard reports from the subcommittees on the Parole Board and the Sentencing Commission.

Of special importance on Wednesday, Chris Whatley, Director, Council of State Governments, gave a presentation on the impact of the Federal Stimulus Package on Kansas (see front page of the newsletter).

Finally, on Wednesday the committee passed SB 196, as amended.

On Thursday, there were several bill introductions. With the exception of SB 303, these have not been assigned bill numbers yet. The committee heard reports from the subcommittees on the Kansas Bureau of Investigation, the Commission on Peace Officer Standards and Training, the Highway Patrol, Adjutant General (including Civil Air Patrol), the Fire Marshal, and the Emergency Medical Services Board.

Also on Thursday, hearings were held on SB 205 and SB 21. SB 205 would prohibit the Kansas Development Finance Authority from refunding any bonds for any state agency unless specifically approved by an act of legislature or the State Finance Council. SB 21 would allow school districts to levy special capital outlay for insurance and utility services. Amendments were made to SB 205 and final action is scheduled for Monday, March 9. Proponents for SB 21 included Sen. John Vratil (R-Leawood); Diane Gjerstad, Wichita Public Schools; Bob Vancrum, Blue Valley USD 229; and Dave Holtwick, Overland Park Chamber of Commerce. Opponents included Bill Reardon, Kansas City Public Schools, and Mark Tallman, Kansas Assoc. of School Boards.

On Friday, the Committee met in advance of the regularly scheduled meeting. A video conference was conducted between the members of the Committee and representatives from the National Council of State Legislatures (NCSL). The purpose of this meeting was to gain further clarification on the impact of the American Recovery and Reinvestment Act (ARRA) on the state. Members from the House of Representatives and the Senate were also present.

On Friday, there were two bill introductions and the committee heard reports from the subcommittee

on Fee Boards. The Committee also had a hearing on SB 204. Eric Wiesner, Department of Agriculture, spoke in support of the bill. The bill was passed out of Committee.

Summary of the 2009 Senate Comprehensive Energy Plan

The 2009 Senate Comprehensive Energy Plan, now in Senate Substitute for HB 2014, was developed with bi-partisan support. It is based on previous legislation that was supported by more than 80% of the Senate.

This is a complex issue. That is why we have a comprehensive energy bill that addresses our need for base load energy and transmission lines and encourages the expansion of renewable energies and energy efficiency while ensuring affordable electricity for all Kansans and restoring regulatory fairness in our state. All solutions are needed to address our growing need for affordable energy now and in the future.

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.

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.

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.

Key components of the measure include:

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.

Net Metering

Proposed policy would make Kansas a national leader in net metering. This would allow Kansans who produce their own electricity through renewable sources such as solar, wind, biomass, hydropower and

geothermal to sell excess power their produce back to their utility company at a fair price.

State Energy Efficiency Standards (EES)

Requires Secretary of Administration to adopt rules and regulations prescribing Energy Efficiency Standards. It applies to all new construction and to the extent possible, renovated state-owned buildings.

Requires design and construction achieve energy consumption levels that meet national and international professional standards if they are life-cycle cost effective.

Requires state-owned vehicles purchased during 2011 to be at least 10% higher in fuel efficiency.

Energy Conservation

Requires the Joint Committee on Energy and Environmental Policy to review all available federal funding including dollars attached to the Federal Stimulus Plan that are designated for energy efficiency and weatherization programs.

Encourages schools and local governments to improve their energy conservation through the state's Facilities Conservation Improvements Program (FCIP)

Directs 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.

Regulatory Fairness and Predictability

Directs the KDHE to establish emissions 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.

Provides fairness when employers want to build or expand in Kansas.

Clarifies the KDHE Secretary use of emergency powers

Directs KDHE to reconsider previous air quality permit applications.

Access to new base load

Allows Kansas Electric Transmission Authority (KETA) to assist in the building of transmission lines that would serve small and local communities.

Places into law an agreement between Sunflower and its partners to make available up to 200 megawatts of electricity to Kansas municipalities and co-ops.

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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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