

# Senator Jay Emler

## Kansas Senate District 35



### From the Desk of Jay Scott Emler

Week of March 16 to 20, 2009

#### Senate Bill 22- No-Fund Warrants:

SB 22 authorizes the issuance of no fund warrants by school districts boards of education without approval from the State Court of Tax Appeals for the purposes of paying teacher salaries if the district does not have the funds available to do so. The district can pay the warrants back with any available revenues. If revenues are not available or insufficient to pay for the warrants, the board of education can make no more than two annual tax levies after the issuance of the warrants. School boards have the authority to issue warrants until June 30, 2012. *SB 22 passed 23 to 17* on Thursday, March 19.

#### Senate Bill 313- Contingency Reserve Fund:

SB 313 temporarily removes the six percent cap for funds going into a school districts contingency reserve fund. The cap is removed until the 2012-2013 school year in order to allow districts to prepare for possible future funding cuts. *SB 313 passed 32 to 7* on Thursday, March 19.

#### Senate Bill 75- Government Consolidation and Reorganization:

SB 75 authorizes a city or county to establish a consolidation study commission by a joint resolution for the purposes of preparing and adopting a preliminary plan for city-county consolidation and to address abolishing other political and taxing subdivisions in the county.

A final consolidation plan must be submitted to voters in the next general election asking if a city and county should be consolidated and if the political and taxing subdivisions located in the county should be abolished and the duties transferred to the consolidated city-county. No city could be consolidated with the county if the majority of voters do not approve of the consolidation. If separate votes are required,

the consolidation must be approved by a majority of voters in the county's unincorporated area and within each city. *SB 75 passed 27 to 11* on Thursday, March 19.

### **Senate Bill 238- Woman's Right to Know Act:**

SB 238 makes many changes to the Woman's Right to Know Act. The Act requires additional information to be provided by a physician to a woman before an abortion is performed. Among the additions is the requirement that physicians provide pregnant women with the opportunity to hear the unborn child's heartbeat or view an ultrasound of the unborn child at least 30 minutes prior to the procedure.

Physicians are also required, by the bill, to meet with each woman no less than 30 minutes prior to an abortion to answer questions and provide information about the procedure. Documentation of a physician's diagnosis that continuing a pregnancy will cause substantial and irreversible harm to a woman or other reasoning for terminating a pregnancy must be on file for a minimum of 10 years.

*SB 238 passed 32 to 6* on Tuesday, March 17.

### **Senate Bill 285- KAN-ED Funding:**

SB 285 amends statutes on expenditures from the Kansas Universal Service Fund (KUSF) to provide \$10 million in funding to the Kan-Ed program through June 30, 2012. *SB 285 passed 37 to 3* on Thursday, March 19.

### **House Bill 2096- Kansas DUI Commission:**

Sen. Sub. for HB 2096 creates the Kansas DUI Commission, amends current law on DUI penalties, revises the duties of the municipal court, and creates statewide driver improvement clinics. The bill creates the Kansas DUI Commission for the purposes of reviewing Kansas DUI statutes and DUI statutes in other states; for evaluating treatment and supervision enforcement practices and penalty structures proven to change DUI offender behavior. They are also charged with developing a legislative proposal for streamlined recordkeeping and collecting and reviewing information from all groups and committees working on DUI issues.

The bill strengthens penalties for third and fourth time DUI convictions. Penalties for third time convictions of DUI are increased to a nonperson felony requiring a 90 day minimum sentence and fine of

\$1,500 while fourth DUI convictions is a nonperson felony punishable by a minimum of 180 days in jail and \$2,500 fine. *HB 2096 passed 40 to 0* on Thursday, March 19.

### **House Bill 2143- Graduated Drivers Licenses:**

HB 2143 modifies the driving permit and license requirements for drivers under the age of 17.

#### ***Instruction Permit***

The bill requires adults holding a valid driver's license who accompany drivers with instruction permits to be at least 21 years old. Instruction permits can be suspended or revoked like all other driver's licenses. The minimum age for instruction permit holders remains at age 14.

#### ***Farm Permit***

Farm permits are available to individuals between the ages 14 to 17. The bill continues to allow farm permit holders to drive in connection for farming purposes and to and from school. Farm permit holders who are 16 or older can drive any time between 5 a.m. and 9 p.m. and while going to or from authorized school activities.

#### ***Restricted License***

Applicants for restricted licenses must hold an instruction permit for at least one year. The current requirement is six months. If younger than 16, the applicant must complete a driver's education course. Fifteen year old applicants are required to have at least 25 hours of adult supervised driving. Fifty hours of adult supervised driving is required for 16 year old drivers, with ten of those hours consisting of adult supervised night driving. Also, drivers 16 years of age or older can drive at any time between 5 a.m. to 9 p.m. and while going to or from authorized school activities.

#### ***Restrictions on Non-sibling Passengers***

Drivers under the age of 16 who have a restricted driver's license or farm permit are prohibited from having non-sibling minor passengers in the vehicle with them. If the driver is older than 16, farm permit or restricted license holders can have one passenger under the age of 18 who is not an immediate family member in the vehicle with them.

#### ***Restrictions on Use of Wireless Devices***

Drivers with instruction, farm, and restricted licenses are banned from operating a wireless communication device while driving with the exception of reporting illegal activity or to call for emergency help.

### *Lifting of Restrictions*

Holders of farm permits and restricted licenses who are 16 and older are no longer restricted on non-sibling passengers or the time of day when driving if the holder has not violated the restrictions for at least six months.

### *Full Licensure*

First-time applicants have to be at least 17 years old to have full driving privileges in the bill. If under the age of 18, full licensure applicants must complete at least 50 hours of supervised driving, with 10 of those hours at night.

### *Penalties*

The bill makes several changes to penalties for violating driving restrictions. If a farm permit or restricted license holder has violated restrictions or had two or more accidents of their fault, the bill requires the suspension of the permit or license for a minimum of one year. If a permit or license holder is under the age of 16 and has been convicted of two moving violations on separate occasions, they are not eligible for unrestricted driving privileges until the age of 18. For those guilty of violating permit or license restrictions, the bill suspends driving privileges for 30 days upon the first conviction, 90 days for the second conviction, and for one year for a third or subsequent conviction.

The conditions, limitations, and restrictions listed in HB 2143 do not apply to individuals holding any valid driver's licenses or permits as of January 1, 2010. *HB 2143 passed 35 to 5* on Thursday, March 19.

### **Update on Abolishing the Death Penalty:**

SB 208 proposed to abolish the death penalty in the State of Kansas after July 1, 2009. For individuals sentenced to death before July 1, 2009 the penalty would still apply. After three hours of debate on Monday, March 16, the Senate, by voice vote, sent the bill back to the Judiciary Committee for further work.

## Ways and Means Committee Update

On Monday, Sen. Umbarger (R-Thayer), introduced SB 323. SB 323 details a comprehensive highway plan. SB 141 was referred to the Judicial Council for further review. The committee heard reports from the subcommittees on the Kansas Arts Commission and the State Library.

Also on Monday, the committee held hearings on SB 306, SB 313, and SCR 1614. All three were passed out of committee and recommended favorably for passage.

SCR 1614 would amend Article 11 of the Kansas Constitution by establishing a budget stabilization fund in the state treasury. The concurrent resolution, if approved, would submit the constitutional amendment to the people of Kansas in the general election in 2010 or at a time chosen by the Legislature. The constitutional amendment would require an amount equal to 0.25 percent of all state revenues collected in the 12 months preceding June 30 of each year be transferred to the budget stabilization fund. The Legislature could transfer money out of the budget stabilization fund only through special legislation by a three-fifths vote or whenever the balance in the budget stabilization fund exceeds 5.0 percent of total state revenues, (excluding federal funds). The two proponents of this resolution were Senate President Steve Morris, and Senate Majority Leader Derek Schmidt.

SB 306 would create the Fireworks and Explosives Fund within the State Fire Marshal, and would amend existing law to direct license fees received under the Kansas Fireworks Act to be deposited into this newly created fund. Dan McLaughlin, State Fire Marshal, provided testimony in support of SB 306.

SB 313 would remove the limitation on the balance which may be maintained by a school district in the contingency reserve fund beginning in the current school year through school year 2011-2012. Sen. Vratil (R-Leawood), provided a few comments in support of SB 313. There were no opponents to SB 313.

On Tuesday, there were three bills introduced in committee; SCR 1616, SB 324, and SB 325. The committee was scheduled to conduct confirmation hearings for the Kansas Health Policy Authority Board, but the issue was tabled until Wednesday, March 18, to allow committee members more time to review the appointments. Also on Tuesday, the committee held hearings on HB 2222 and Senate Bills 308 and 196.

HB 2222 would authorize a state department, agency, commission, or authority which is obligated by statute to collect a license, fee, charge, tax, or other exaction to impose a surcharge not to exceed 5.0 percent of the assessment in order to enhance the efficiency of the agency. Agencies would be authorized to establish a discount up to 5.0 percent of the assessment in order to enhance the efficiency of the agency.

SB 308 deals with state agencies. Currently there is a cap of \$200,000 on a 20% administrative fee that is charged to state agencies; SB 308 increases that cap to \$350,000. This bill came at the recommendation of the subcommittee on Fee Boards as an alternative to a 10% budget reduction. Robert Waller, Executive Director, EMS, provided neutral testimony on the bill. There were five opponents: Mary Blubaugh, Board of Nursing; Sarah Tidwell, Kansas State Nursing Association; Jack Confer, Executive Director, Board of Healing Arts; Doug Wareham, Kansas Bankers Association, and Jerry Slaughter, Kansas Medical Society. There was no action taken on the bill.

SB 196, as amended, would clarify that on or after July 1, 2009, current law pertaining to retirees of the Kansas Public Employees Retirement System (KPERS) who return to work after retirement as contracted employees will be subject to the same state policies as other KPERS retirees. The bill would apply current law regardless of whether KPERS retirees return to work under individual contracts, or return to work as employees of a third-party company which contracts their services to any participating KPERS employer. A provision would require the third-party companies to provide information about the salaries of its contract employees in order for KPERS and participating employers to apply current law regarding salary caps and employer actuarially assessed contributions.

On Wednesday, two bills (SB 327, SB 326) were introduced by Sen. Kelly-D, Topeka. The committee confirmed reappointments for three members of the Kansas Health Policy Authority Board: Joe Tilghman, Garen Cox, and E.J. "Ned" Holland, Jr. The committee also heard reports from the subcommittees on the State Conservation Commission, Kansas Water Office, Department of Wildlife and Parks, Department of Commerce, Kansas Inc., KTEC, Department on Aging, and the subcommittee on Capital Improvements. The subcommittee on the Department of Commerce introduced a bill concerning the Kansas Athletic Commission, and the subcommittee on the Department of Aging introduced a bill dealing with nursing facility reimbursement rates.

Also on Wednesday, the committee held hearings on HB 2354 and SB 310. HB 2354 deals with claims against the state. The bill was amended and put on the agenda for a vote on Thursday. SB 310 would prohibit SRS from placing more than six sexually violent predators in any one county on transitional release or conditional release. The bill was amended to change the number from six to eight persons per county. SB 310 was recommended favorably for passage.

On Thursday, the committee discussed the budget for fiscal year 2010. The committee debated the bill for nearly six hours before arriving at a consensus. The end result was that SB 304 (FY 2010 Appropriations) and SB 309 (Capital Improvements bill) were rolled together and then put into Sen. Sub. for HB 2354. The budget bill is scheduled for debate on the Senate floor on Tuesday, March 24.

On Friday, the committee did not meet. The committee will meet next on Monday, March 23 to consider a number of KPERS issues.

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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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