

Senator Jay Emler

Kansas Senate District 35



From the Desk of Jay Scott Emler

January 21st to 29th, 2010

Death Penalty Update

On Friday, January 29, the Senate Judiciary Committee met for final action on two bills that propose eliminating the death penalty in Kansas, SB 208 and SB 375. The committee voted to table SB 208 and turn its focus to SB 375. An amendment by Senator Pilcher-Cook was added to the bill that would take away the possibility of commuting the sentence of life without the possibility of parole. As a result, a second amendment was approved that added the aforementioned commutation language in appropriate places, as determined by the revisor, in statutes where death and life without parole are mentioned. A final amendment by Senator Derek Schmidt was offered to exclude functional disability and functional incapacitation release from statutes concerning life without parole.

A motion by Senator Derek Schmidt to table the bill was defeated by a vote of 4 to 6. The bill passed favorably out of committee, as amended, by a vote of 7 to 4.

Unemployment Trust Fund

In February, for the first time in Kansas history, the State will begin receiving advances from the U.S. Department of Labor to ensure unemployment claims are paid to eligible Kansans. The Unemployment Insurance (UI) Trust Fund began 2009 with a balance of over \$500 million and finished the year with an approximate balance of \$90 million. Continued weekly unemployment claims in 2009 totaled \$2.36 million compared to \$1.1 million in 2008.

Due to the rapid depletion of the UI Trust Fund, Kansas employers will have to pay more into the fund to compensate for the increase in unemployment benefits paid. In September 2009, employers in Kansas were notified the reduced tax rate experienced in the previous three years would not be in effect for 2010 and revised tax rate calculations were sent to employers detailing their tax rate for 2010 the

following December. For 2010 total required employer contributions to the UI Trust Fund is \$406.9 million, an increase of 105 percent from the 2009 contribution requirement of \$198.4 million. The minimum taxable rate on the first \$8,000 in wages paid for Kansas in 2010 is 0.16 percent while the maximum rate is 7.4 percent.

Currently, 30 of 53 unemployment trust funds in other states are borrowing from the federal government totaling \$29.7 billion in UI advances. The advances will be issued to the state on a daily basis for the amount of money needed to satisfy benefit payments for the day. The American Recovery and Reinvestment Act included a provision that allowed the advances to be paid out without interest for 2010, so the state will not have to pay interest until September 30, 2011. However, if the state has not repaid the loan on the UI advance by January 2013, a 0.3 percent reduction in the discount rate that the federal government allows will be put in place. For calendar year 2013 the FUTA rate for Kansas will go from 0.8 percent to 1.1 percent and will increase, each year, by 0.3 percent until the loan is repaid.

Senate Bill 360- Small Claims

SB 360 removes the cap on the number of small claims actions that can be filed during a calendar year. A precise fiscal note for SB 360 cannot be determined but the Office of Judicial Administration believes most cases would be accommodated within the existing court schedule and not require additional resources. *SB 360 passed by a vote of 40 to 0 on Wednesday, January 27.*

Senate Bill 371-Civil Procedure

SB 371 amends the statute that authorizes attorney fees in certain actions involving negligent motor vehicle operations. The bill increases the property damage cap from less than \$7,500 to less than \$15,000. During the 2009 Legislative session a similar bill, HB 2110, was introduced but stricken from the calendar by House Rule 1507.

There was no fiscal note available during the hearing in the Senate Judiciary Committee.

SB 371 passed by a vote of 40 to 0 on Wednesday, January 27.

Senate Sub. for HB 2222- FY 2010 and FY 2011 Budget

Senate Sub. for HB 2222 amends the existing budget for fiscal year 2010 and fiscal year 2011. The provisions in the bill:

- Reduce funds from the State General Fund (SGF) to the Legislative Coordinating Council (LCC) by \$86,885;
- Add \$1.1 million in SGF to the LCC for distribution among legislative branch agencies. Governor Parkinson originally cut \$2.75 million from the LCC budget by allocating for an 83 day session. The addition of \$1.1 million reduces the LCC cut to \$1.65 million to allocate for the possibility the 2010 session going over 83 days;
- Add language for FY 2010 and FY 2011 that reduces the franking privileges of the Legislature by 50 percent below the current authorized amount for calendar year 2010. Language also dictates that if a member exceeds their postage allowance, no further expenditures could be made;
- Cap the franking privileges for House and Senate leadership at \$2,500 for the 2010 calendar year; and
- Reduce the Legislative Research Department's operating expenditures for FY 2010 by \$426,615;
- Reduce the Revisor of Statutes operating expenditures for FY 2010 by \$649,379;
- Reduce the Legislature's operating expenditures for FY 2010 by \$1,366,648;
- Reduce the Division of Post Audit's operating expenditures for FY 2010 by \$225,457;
- Add \$5 million to the Judicial Branch for Judicial operations for FY 2010. An unintentional oversight by the legislature during the 2009 session cut \$8 million from the 2010 fiscal year judiciary budget and the addition of \$5 million restores all but \$3 million in funding for the judiciary;
- Shift from the State Highway Fund to SGF two transfers from February and May totaling \$80 million;
- Transfer \$5 million from the Investor Education Fund with the Office of the Securities Commissioner to the general fund;
- Reduce the appropriation to the Department of Commerce Economic Development Initiative Fund (EDIF) by \$800,000;
- Reduce the appropriation to the Kansas, Inc. EDIF by \$10,000;
- Reduce the Kansas Technology Enterprise Corporation EDIF by \$390,000;
- Transfer \$5.8 million from the EDIF to the State General Fund;
- Shift \$2 million from the State Housing Trust Fund to the general fund;

- Direct the Kansas Health Policy Authority to review short, mid and long term contracts and other potential cost savings methods and to report back to the House and Senate public health committees by March 1, 2010.

During the floor debate in the Senate, Senator Colyer offered an amendment that would restore \$22 million in Medicaid reimbursement payments to Kansas Medicaid providers. The amendment would have restored Medicaid reimbursement payments with \$22 million in federal stimulus dollars still available for FY 2011. In order to make up the \$22 million hole for FY 2011, the amendment would have required the Kansas Health Policy Authority to report back to the Legislature, on March 1, 2010, at least \$22 million in alternative cuts to the Medicaid program that would not affect Medicaid providers or recipients for the 2011 fiscal year. On a roll call vote, the amendment failed by a vote of 16 to 24. ***Senate Sub. for HB 2222 passed by a vote of 36 to 4 on Wednesday, January 27***

Senate Sub. for HB 2353- Chautauqua County Jail

Senate Sub. for HB 2353 amends local sales tax statutes to retroactively ratify the December 1, 2009 election in Chautauqua County that approved a countywide sales tax to finance a new county jail and law enforcement facility. The existing county jail was built in 1923 and does not meet current building standards. ***Senate Sub. for HB 2353 passed by a vote of 40 to 0 on Wednesday, January 27.***

Ways and Means Committee update

On Thursday, January 21, two bills were introduced. SB 409 (Sen. Masterson, R-Andover), establishes a passenger rail program. SB 410, (Sen. Emler) concerns electronic payments. The Ways and Means Committee heard testimony from Barb Hinton, Legislative Post Auditor. She provided testimony on recent Legislative Post Audits and gave a summary of Performance Audits currently under way. The audits she addressed included; Adult Correctional Agencies, Child-Care Assistance, Vehicle Travel, State Universities, and K-12 Education.

On Friday, two bills were introduced. SB 444 (Sen. V. Schmidt, R-Topeka), establishes the child witness protection act. SB 445 (Sen. Teichman, R-Stafford), concerns property tax exemptions pertaining to property held by the Department of Transportation. The Committee heard testimony from Dr. Andy Allison, Acting Executive Director of Kansas Health Policy Authority (KHPA). Dr. Allison gave testimony updating the committee on the KHPA FY 2010 and 2011 budgets. Dr. Allison addressed the backlog in processing State Children's Health Insurance Program (SCHIP) application and that there are not enough

funds to alleviate it. He also presented new administrative cost-saving options for the agencies FY 2011 budget.

On Monday, January 25, two bills were introduced. SB 461, (Sen. Vratil R- Leawood), regards supplemental pay for magistrate judges. SB 446 (Sen. V. Schmidt, R-Topeka), concerns rules and regulations for a new financial management system. The Committee discussed the guidelines for the Budget Subcommittees and members were given their Subcommittee assignments. The Committee then heard testimony from Dr. Julian Efrid from the Legislative Research Department. Efrid gave an update on the state's debt. Steve Weatherford, Kansas Development Finance Authority, presented the 2009 Kansas Debt study, an overview of debt-financed projects Kansas began into in 2009.

On Tuesday, January 26, no bills were introduced. The Committee heard testimony on SB 405. This bill allows cities of the first, second, and third class, counties and school boards to publish public notices on their websites. Six proponents testified. They stated that this type of publication would create modest savings and save staff time. Three opponents testified, stating website publications would make government less accountable and that these notices would not be available to all. The hearing was closed on SB 405.

On Wednesday, January 27, three bills were introduced. SB 468 (Sen. Vratil) alters the requirement for calling a grand jury by citizen petition. SB 469 (Sen. Vratil), establishes a computerized construction registry requiring entities that supply construction projects to register claims before they file mechanics liens. SB 475 concerns funeral service directors. The Committee heard testimony on SB 357, a bill authorizing the state of Kansas to convey certain real estate on behalf of Juvenile Justice Authority to the city of Beloit. The Beloit Juvenile Correctional Facility closed as a result to budget reduction. Five proponents testified on some of the uses they have in mind for the facility. The hearing was closed and the bill was recommended favorably for passage.

On Thursday, January 28, three bills were introduced. SB 479 (Sen. V. Schmidt), concerns unclaimed property. SB 481 (Sen. Vratil), establishes one judge per county. SB 480 (Sen. Emler), concerns material applied to license plates. The Committee heard a briefing on claims against the state concerning special city-county highway funds. The Committee heard from three conferees explaining why the Department of Revenue owes \$11 million to five counties: an error in the location coding of

computer software for the Treasury department. The Committee opened the hearing on SB 387, a bill concerning claims against the state. Written testimony was provided and the hearing was closed. Chairman of Kansas Water Authority (KWA), Steve Irsik, gave testimony and reported on projects the KWA has started.

On Friday, January 29, no bills were introduced. Pat Kuester, Chief Fiscal Officer Department of Health and Environment, testified on the Treece Superfund buyout and relocation. The Committee heard testimony on SB 410, a bill that concerns state agencies; acceptance of payments by debit cards. One proponent testified that the bill would allow for organizations to be notified if payment has not occurred. The hearing was closed.

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