

# Senator Jay Emler

## Kansas Senate District 35



### From the Desk of Jay Scott Emler

Week of February 1, 2010

#### January Revenue Collections

The month of January was the third monthly report based on the revised consensus revenue estimates made in November 2009. Through January, total State General Fund (SGF) receipts for the 2010 fiscal year were \$39.1 million, or 1.3 percent, below estimates. Tax only collections to the general fund were \$36.5 million, or 1.2 percent, below predictions. Total SGF receipts through January of FY 2010 were \$301 million, or 9.2 percent, below comparable receipts from FY 2009. For FY 2010, tax only receipts are \$252.2 million, or 7.9 percent, below the same period in FY 2009.

Multiple tax sources fell below estimates by more than \$1 million. Those sources include a \$24 million deficit in individual income tax collections, \$5.3 million shortfall in compensating use taxes, \$5 million loss in severance tax collections, \$3.5 million shortage in estate taxes, and a \$3.5 million deficiency in estate taxes. Corporate income tax receipts exceeded estimates by \$9.9 million, or 7.7 percent. It was the only tax source to exceed estimates by \$1 million.

#### SB 357- Beloit Juvenile Correctional Facility

SB 357 authorizes the Secretary of the Department of Administration to return the Beloit Juvenile Correctional Facility back to the City of Beloit. The bill removes any legal references to the Beloit Juvenile Correctional Facility Fee Fund, Beloit Juvenile Correctional Facility and the legal description of the facility from statute.

The fiscal note from the Division of the Budget does not have an effect on state revenues or expenditures, if passed. If SB 357 is not enacted, additional funding for FY 2010 and FY 2011 will be needed to provide routine facility maintenance. The bill would become effective upon publication in

the Kansas Register. SB 357 passed 39 to 0 on Tuesday, February 2.

### **SB 388- Risk-Based Capital Requirements**

SB 388 amends the effective date for the risk-based capital (RBC) instructions transmitted by the National Association of Insurance Commissioners. The current instructions became effective on December 31, 2008 and the bill updates the effective date to December 31, 2009. One of two triggers put in place by HB 2052 from the 2009 session for updated RBC instructions had been met and required the new instructions to be placed in statute. The bill has no fiscal effect. SB 388 passed 39 to 0 on Tuesday, February 2.

### **SB 391- Anatomical Gifts**

SB 391 amends the 2007 Revised Uniform Anatomical Gift Act by including language that a person who has agreed to put their name in the Midwest Transplant Bank registry has also given full legal consent to the donation of their organs or tissues upon their death. The bill also allows a donor to amend or revoke an anatomical gift by accessing the registry website or by notifying the organization designated for organ procurement in Kansas. If a donor chooses to withdrawal their consent to be listed in the registry it does not withdrawal their donation of organs or tissues. SB 391 passed 39 to 0 on Tuesday, February 2.

### **SB 393- Administrative Hearings**

SB 393 would allow the Kansas Department of Agriculture to provide notice and an opportunity for a hearing in instances where the Agency revokes a license. The bill also authorizes the Secretary of Agriculture to temporarily suspend any licenses and permits issued under the Kansas Dairy Law without the opportunity for a hearing and notice as required by administrative procedure law. The temporary suspension could not exceed 90 days without the permanent suspension, revocation or reinstatement of the license or permit. SB 393 passed 39 to 0 on Tuesday, February 2.

### **SB 394- Pesticide Education**

SB 394 enlarges the scope of entities beyond Kansas State University that the Secretary of Agriculture may coordinate with to produce information and provide instructional courses on the safe use of pesticides. In addition, the bill allows the Secretary to cooperate with the aforementioned entities to carry out certain provisions of pesticide law. The bill has no fiscal impact. SB 394 passed 39 to 0 on

Tuesday, February 2.

### **SB 421- Election Crimes**

SB 421 changes the penalty for voting without being qualified from a class A misdemeanor to a level 9 nonperson felony. SB 421 passed 39 to 0 on Tuesday, February 2.

### **SB 426- Absentee Ballots**

SB 426 expands absentee voting opportunities for federal service voters and military personnel and their family members. The bill allows overseas voters to apply for, receive and return their ballots electronically. If needed, overseas voters are also allowed to vote a full ballot for all elections and, if needed, vote by write-in ballot. SB 426 passed 39 to 0 on Tuesday, February 2.

### **SCR 1615- Tenth Amendment Resolution**

The Senate Judiciary Committee favorably passed out SCR 1615 on Wednesday, February 3. The concurrent resolution declares the sovereignty of Kansas and serves as a Notice and Demand to the federal government to immediately cease and desist all mandates that are beyond the scope of the powers delegated under the Tenth Amendment in the United States Constitution. In addition, SCR 1615 prohibits all federal legislation that requires states to comply under threats of penalties or sanctions or requirements that states pass legislation to maintain certain funding. The concurrent resolution is now up for consideration by the Senate.

### **SCR 1621- Litigation Financed with Public Funds**

The Senate Judiciary Committee favorably passed out SCR 1621 on Wednesday, February 3. The concurrent resolution declares the view of the Kansas Legislature that courts lack the constitutional authority to order the legislature to make specific appropriations. In addition, SCR 1621 declares that no public funds or funds derived from taxes should be used to finance or support litigation challenging the constitutionality of appropriations by the legislature. SCR 1621 is now up for consideration by the Senate.

### **Appointments**

On Tuesday, February 2, the Senate approved the following appointments:

- Suzanne Valdez to the Kansas Crime Victims Compensation Board by a vote of 39 to 0
- Dr. William Allen Reed to the Kansas Health Policy Authority by a vote of 39 to 0
- Suchitra Padmanabhan to the Kansas Development Finance Authority by a vote of 39 to 0
- Thomas M. Cohen to the Kansas Technology Enterprise Corporation by a vote of 39 to 0
- Belinda Sue Vierthaler as Kansas Long-Term Care Ombudsman by a vote of 39 to 0
- John Poertner to the Kansas State Board of Indigents' Defense Services by a vote of 39 to 0
- Scott M. Slabotsky to the University of Kansas Hospital Authority by a vote of 39 to 0

### **Agriculture**

The Senate Agriculture Committee, this week, held hearings on SB 425 concerning the blending of motor vehicle fuels. The committee also heard presentations from the Kansas Corn Commission, Kansas Soybean Commission, Kansas Sorghum Commission, Kansas Wheat Commission, and Kansas Sunflower Commission.

### **Assessment and Taxation**

The Senate Assessment and Taxation Committee held hearings on SB 431 on allowing taxing subdivisions to sell tax receivables on delinquent property, SB 432 regarding counties ability to recoup costs for hiring third parties to collect delinquent property taxes and SB 433 concerning a possible sales tax exemption for the Kansas Wildscape Foundation. Also, hearings were held on SB 430 pertaining to limits on certain income tax credits and SB 406 regarding the establishment of a service fee for delinquent taxpayers who enter into installment payment plans.

### **Business and Labor**

This week the Senate Business and Labor Committee reviewed the Kansas Unemployment Rate Assessments as they relate to positive and negative balance employers with the Secretary Jim Garner with the Kansas Department of Labor.

### **Commerce**

The Senate Commerce Committee reviewed Star Bonds with Acting Commerce Secretary Bill Thornton and the Kansas Bioscience Authority with Tom Thornton, President and John Carlin, Chairman of the Bioscience Authority this week.

### **Education**

The Senate Education Committee met this week to hold hearings on SB 355 and SB 362 which both concern notice of non-renewals for teachers and SB 358 and SB 359 which concern catastrophic state aid for special education. The committee also received an audit report from Laurel Murdie with the Legislative Division of Post Audit on issues related to catastrophic funding for special education.

### **Ethics and Elections**

This week the Senate Ethics and Elections Committee conducted hearings on SB 418 regarding the reporting of electioneering communications, SB 416 on eliminating the expiration date for state university faculty to file statements of substantial interest, SB 417 concerning the requirement to list the occupation, not industry, of contributors of \$150 or more on campaign finance reports, and SB 423 pertaining to the transfer of campaign funds to another candidacy.

### **Federal and State Affairs**

The Senate Federal and State Affairs Committee held hearings on SB 452 regarding the purchase and consumption of alcoholic beverages by persons under the age of 18, SB 453 pertaining to the permits for packaging and warehouse facilities of alcoholic beverages and SB 454 on licenses to sell alcoholic beverages. The Committee also held hearings on SB 222 concerning criminal history record checks for emergency medical services and SB 169 regarding the Kansas Act Against Discrimination. In addition, the committee voted to favorably pass out SB 169, SB 452 and SB 342 regarding the prohibition of novelty cigarette lighter sales. The bills are now up for consideration by the Senate.

### **Financial Institutions and Insurance**

The Senate Financial Institutions and Insurance Committee, this week, met to hold hearings on SB 415 regarding municipality bond investments, SB 414 on fund transfers to the health care stabilization fund, SB 424 concerning insufficient payments by credit cards and other instruments for vehicle registrations, SB 167 pertaining to increasing the enforceable limit of a hospital lien and SB 389 on prohibiting dentists from limiting payments for services not covered under insurance policies. The committee also passed SB 382 and SB 239, favorably, out of committee.

### **Judiciary**

This week, the Senate Judiciary Committee held hearings on SB 368 on amending the penalties for driving under the influence of alcohol or drugs, SB 434 proposing to increase the criminal penalty for

unlawful sexual relations and SB 374 concerning the Kansas Apology Law. SB 381 regarding the justified use of force or threat, SB 345 pertaining to an increase in fees for probation services and community corrections and SB 346 on the transfer of offenders to the Department of Corrections all received hearings in Judiciary over the week, as well.

The committee held hearings on SB 400 regarding the notification of defendants, SB 386 on repealing a statute covering recorded statements of child victims, SB 411 concerning the criminal possession of a firearm and SB 372 amending the Kansas Act for Obtaining a Guardian or a Conservator. Hearings were also held for SB 398 regarding amendments to certificates of incorporation or corporate bylaws and SB 399 concerning enhanced penalties for distributing a controlled substance on park property and distributing a controlled substance to a child or pregnant person.

Final Action was held on the following bills: SB 376 concerning the Kansas Judicial Review Act, SCR 1621 on expenditure of public funds to finance litigation against the state and SCR 1615 regarding the 10th Amendment and states' rights. The committee voted to favorably pass out SB 376, SB 368, SCR 1621 and SCR 1615 and all are up for consideration by the Senate.

### **Local Government**

The Senate Local Government Committee held hearings on HB 2125 regarding the requirement of a receipt for paid real estate taxes and SB 451 concerning municipal bond sales, over the week. Hearings were also held on SB 462 pertaining to the bond debt limit for Norton County and SB 465 on nuisance abatement notices. The committee voted to pass SB 451, favorably, out of committee where it is now up for consideration by the Senate.

### **Natural Resources**

The Senate Natural Resources Committee continued to review the prescribed burning of the Flint Hills over the week.

### **Public Health and Welfare**

The Senate Public Health and Welfare Committee held hearings on SB 447 regarding the licensing and inspection of child care facilities and SB 449 concerning the educational requirements for licensing

audiologists this week. The committee also continued discussion on the impact of budget reductions in the Medicaid program and alternative sources of savings and dispensing controlled substances under Medicaid. SB 449 was favorably passed out of committee where it is now up for consideration by the Senate.

### **Transportation**

This week, the Senate Transportation Committee held hearings on SB 276 which proposes separate license plates for the United States army, navy, air force, marine corps, coast guard and merchant marines. The committee also held hearings on SB 409 regarding the establishment of the passenger rail service program, SB 408 concerning additional locations for vehicle regulations, SB 462 pertaining to liabilities for damages to highways and other traffic structures, and SB 498 regarding the financing of the Transportation Works for Kansas Program. The committee voted to table SB 276 and SB 295 which concerned noise safety requirements of hybrid vehicles.

### **Utilities**

This week, the Senate Utilities Committee held several days of hearings on SB 384 concerning the modifying requirements for telecommunication carriers and allowing local exchange carriers to elect to be regulated as telecommunication carriers. The committee also held hearings on SB 402 regarding demonstrations by local telecommunications carriers and SB 450 on enabling certain telecommunications carriers to spend federal universal service fund moneys. In addition, Christine Aarnes with the Kansas Corporation Commission appeared before the committee to report on changes in rates and schedules.

### **Senate Ways and Means Committee Update**

On Monday, February 1, two bills were introduced. SB 498, (Sen. Umbarger R-Thayer), concerns initiating a transportation works for Kansas program. SB 515, (Sen. Umbarger), concerns removing sales tax exemption on fuels.

The Committee heard a presentation on Water Litigation from Mike Leitch, Deputy Attorney General. He updated the committee on current litigation and the inadvertent lapsing of funds in the Interstate Water Litigation Fund. Patrick Broxterman, Assistant Attorney General, updated the Committee on the status of Tobacco Litigation. The Committee then began the hearing on SB 327, a bill creating the

Tobacco Master Settlement Agreement Compliance Fund. The bill would transfer \$900,000 from the Kansas Endowment for Youth Fund to support tobacco enforcement. Three opponents testified that this would directly affect funding for programs financed with proceeds from tobacco litigation.

On Tuesday, February 2, three bills were introduced. SB 513, (Sen. McGinn R-Sedgwick), concerns construction contracts, specifically those relating to hospitals. SB 514, (Sen. McGinn), concerns clean up of construction contracts, relating to school districts. SB 512, (Sen. Schodorf R-Wichita) concerns school district Medicaid replacement. The Committee heard testimony on SCR 1625, a resolution urging the federal government to act aggressively in addressing the threats of bioterrorism and to move quickly to advance the sale of Plum Island. One proponent testified that this resolution would raise national security against bio terrorism. The hearing was closed and the resolution was recommended favorably for passage. The Committee also heard testimony on SB 21, which allows school districts to levy a special capital outlay for insurance and utility services, subject to protest election. Three proponents testified that bill allows for some flexibility for the school district to use. Three opponents testified that this funding was not equalized and would benefit some school districts more than others.

On Wednesday, February 3, three bills were introduced. SB 527, (Sen. Vratil R- Leawood) concerns Kansas Public Employees Retirement System (KPERS) retirement pensions. SB 526, (Sen. Umbarger R-Thayer), concerns the Department of Administration accepting out of state competitive bids. SB 528, (Sen. Vratil) concerns property evaluation. The Committee heard testimony on HB 2414, a bill authorizing Fort Hays State University to sell land to the city of Hays. Hays City Manager, Toby Dougherty, testified that the land would be used for a sports complex in Hays. There were no opponents. The hearing was closed and the bill was recommended favorably for passage. The hearing for SB 396 was then held. Constantine Cotsoradis, Deputy Secretary for the Department of Agriculture, testified that this bill allows for flexibility in funding and takes no money from the state. The hearing was then closed.

On Thursday, February 4, the Committee heard testimony on SB 446, a bill eliminating the requirement that the Director of Purchases sign every state contract. Peggy Hanna, Department of Administration, testified that the old statutory language is obsolete and does not reflect how Kansas will be doing

business under its new financial management system. The committee then took action on SB 410, a bill concerning electronic debit card payments. It was amended twice and recommended favorably. The committee took action on SB 446. It was also recommended favorably for passage.

On Friday, February 5, no meeting was held.

This week, the following Ways and Means Subcommittees met to begin hearings on the fiscal year 2011 budget.

- Subcommittee on Department of Corrections - Topeka, Norton, El Dorado, Winfield, Hutchinson, Lansing and Ellsworth Correctional Facilities and Larned Correctional Mental Health Facility;
- Subcommittee on Health Policy Authority
- Subcommittee on Higher Education
- Subcommittee on Judicial Branch, Judicial Council, Board of Indigent Defense Services
- Subcommittee on Juvenile Justice Authority, Juvenile Correctional Facility

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