

# Senator Jay Emler

## Kansas Senate District 35



### From the Desk of Jay Scott Emler

Week of February 15, 2010

#### Turnaround

The Senate was not in session on Monday, February 22, due to turnaround.

#### Senate Sub. for House Bill 2222

Senate Sub. for HB 2222 is the rescission bill of the 2010 fiscal year. The conference committee added \$550,000 from the State General Fund to the Legislative Coordinating Council for FY 2010. The Governor's budget recommendation accounted for an 83 day session and the conference committee added \$550,000 in case the legislative session exceeds 83 days. The conference committee also reduced the franking allowance of each member of the Legislature by 50 percent for calendar year 2010. If a member has already exceeded 50 percent of the authorized franking amount, the member would not be allowed to charge any additional postage to their account.

In addition, \$2.4 million from the general fund was added to restore Governor Parkinson's 10 percent cut in Medicaid reimbursements for Home and Community Based Services for those with developmental disabilities. By adding the funds back in for Medicaid reimbursement, the state will receive an additional \$5.5 million in federal funds. The conference committee added language to the bill that directs the Kansas Health Policy Authority (KHPA) to evaluate and describe short and long term options, adjustments and improvements to the state Medicaid plan in addition to other administrative actions to reduce costs for administering Medicaid. KHPA is required to consult with SRS, the Department on Aging and the Legislature on the potential changes and actions and to report back to the Senate Public Health and Welfare Committee, the appropriate Senate Ways and Means Subcommittee and the House Health and Human Services, Aging and Long Term Care and Social Services Budget Committees on or before March 10, 2010.

Finally, the conference committee reduced all salaries of state officers by five percent, \$955,522, for FY 2010. The salary reductions include statewide elected officials; department secretaries and CEOs; members of boards, councils or authorities; legislators; legislative leadership and staff; judges and justices; and other positions authorized by statute.

*The conference committee report for S. Sub. for House Bill 2222 passed 33 to 6 on Thursday, February 18.*

#### Senate Bill 375- Death Penalty Repeal

SB 375 repeals the crime of capital murder and removes the death penalty as a sentencing option for crimes committed on or after July 1, 2010. The bill does not affect the death sentence for a person sentenced to death prior to July 1, 2010. The measure creates the crime of aggravated murder classified as the intentional and premeditated: killing of a person while committing kidnapping or aggravated kidnapping with the intent to hold the person for ransom; killing a person as part of a contract or agreement to kill; killing of a person while an inmate or prisoner confined in a state correctional facility, community correctional institution or jail or while in the custody of an officer or employee of a correctional facility or jail; killing of a victim to before, during or while attempting to commit rape, criminal sodomy, aggravated criminal sodomy; killing of a law enforcement officer; killing of more than one person in the same instance or in two or more connected acts constituting a common course of

conduct; or killing of a child under 14 years of age with committing kidnapping or aggravated kidnapping when committed with the intent to commit a sex offense with the child.

The bill allows defendants to be prosecuted for crimes that combine to be charged with aggravated murder and not just aggravated murder. The penalty for conviction of aggravated murder is life without parole and no possibilities for sentence commutation, parole, probation, community corrections, conditional release, post release supervision, functional incapacitation release, or suspension, modification, or reduction of a sentence. **SB 375 failed 20 to 20** on Friday, February 19.

### **Senate Bill 370- Kansas Consumer Protection Act**

SB 370 amends the Kansas Consumer Protection Act to define the terms immediate family member, member of the military, protected consumer and veteran. The bill replaces the term elder or disabled person with the term protected consumer. **SB 370 passed 40 to 0** on Thursday, February 18.

### **Senate Bill 351- Text Message Ban**

SB 351 makes it unlawful for a person to use a handheld wireless communication device for text messaging or e-mail while driving. A first conviction for this offense would be a traffic offense and second or subsequent convictions are a class B misdemeanor. Persons convicted of text messaging or e-mailing while driving, who cause serious injury to another person would be guilty of a class A misdemeanor.

The bill does not include voice-operated or hands-free devices as a handheld wireless communication device nor does it classify emergency, traffic or weather alert messages as a text message. In addition, the measure clarifies that it is not unlawful to activate or deactivate a feature of a voice-operated or hands-free device or unlawful to read, select and enter a telephone number or name in a handheld wireless communication device for the purpose of making or receiving a phone call. **SB 351 passed 34 to 6** on Friday, February 19.

### **Senate Bill 381- Justified Threat or Use of Force**

SB 381 amends current law by adding “threat of force” as an action of force a person may use when needed to defend themselves, others or property. The bill provides a rebuttable presumption that the person had a reasonable belief that such force or threat of force was necessary to prevent or end the attack. In situations where deadly force is the issue, the measure also provides a rebuttable presumption that the person had a reasonable belief that such deadly force or threat of deadly force was necessary to prevent death or great bodily harm. **SB 381 passed 40 to 0** on Thursday, February 18.

### **Senate Bill 353- Human Trafficking**

SB 353 renames the existing crimes of trafficking and aggravated trafficking to human trafficking and aggravated human trafficking. The measure expands the crime of human trafficking to include coercing employment and involuntary servitude as two additional ways to commit the crime. Also, the bill clarifies that using the labor of an individual incarcerated in a correctional facility does not constitute as human trafficking. Human trafficking remains a severity level 2, person felony in the bill and human trafficking and aggravated human trafficking would be added to the list of crimes subject to forfeiture. **SB 353 passed 40 to 0** on Tuesday, February 16.

### **Senate Bill 430- Limitations to Income Tax Credits**

SB 430 makes several changes to legislation approved during the 2009 session that provided a 10 percent reduction for various income tax credits. The bill makes several technical corrections on the distinction between refundable and non-refundable credits with the 10 percent reduction for the 2009 and 2010 tax years and further clarifies the tax treatment for deferred maintenance contributions at certain educational institutions and for capital investments with certain declared disasters that could be both refundable and non-refundable at different times.

In addition, the measure repeals the \$3.75 million cap for tax years 2009 and 2010 that had been placed

on historic preservation income tax credits and replaces the cap with a general limitation intended to reduce the credits by exactly 10 percent. For tax year 2010, the bill also replaces the 10 percent reduction for regional foundation tax credits with a 10 percent reduction in a statutory cap for fiscal year 2011. **SB 430 passed 29 to 7** on Tuesday, February 16.

### **Senate Bill 483- Safety Belts**

SB 483 requires each adult occupant of a passenger vehicle with manufactured safety belts to have a safety belt on when the car is in motion. Current law requires persons under the age of 18 and adults in the front seat to use safety belts. The bill allows law enforcement to stop a vehicle if an adult occupant is not wearing a safety belt and increases the fine for not wearing a safety belt from \$30 to \$60, including court costs. From the effective date until June 30, 2010, law enforcement would be required to issue a warning citation for not wearing a safety belt. After June 30, 2010, violators would be ticketed.

If passed, the state would become eligible for more than \$11 million in federal transportation funds. **SB 483 passed 26 to 14** on Tuesday, February 16.

### **Senate Bill 362- School Districts and Contracts of Employment**

SB 362 amends the continuing teacher contract law to allow a school board to adopt a resolution giving notice of the board's intent to not renew teacher contracts after May 1 but no later than June 1, in years where education appropriations are finalized after April 16. In that situation, teachers would have until June 15 to give the board notice of their intent to not renew the teaching contract. **SB 362 passed 30 to 10** on Tuesday, February 16.

### **Ways and Means Committee update**

On Monday, February 15, no bills were introduced. The Committee continued its work on the FY 2011 budget. It received the budget subcommittee recommendations on the Citizens Utility Ratepayer Board (CURB), the Kansas Corporation Commission (KCC), and the Kansas Public Employees Retirement System (KPERS) Budget. Sen. Vratil (R-Leawood) presented the reports. For the CURB, the subcommittee concurred with the Governor's recommendation for FY 2011. For the KCC, the subcommittee concurred with the Governor's FY 2011 budget. The subcommittee noted that agency was recently awarded approximately \$50 million in American Recovery and Reinvestment Act (ARRA) funding. Several programs are currently being developed with federal ARRA funding. They include loan programs for cost-effective energy-efficiency improvements in homes and small business, and energy auditor training programs. These programs will be promoted in a statewide campaign. For KPERS budget, the subcommittee concurs with the Governor's recommendation for FY 2011. The subcommittee did note that all of the agency operating expenses, which include salaries and wages, are funded entirely through the KPERS Trust Fund. The Committee adopted all three reports. The Committee then discussed SB 405, which concerns publication of notices. The bill would allow municipalities to publish notices on websites. No action was taken.

On Tuesday, February 16, no bills were introduced. The Committee continued its work on the FY 2011 budget. It received the budget subcommittee recommendations on the Kansas Lottery and the Kansas Racing and Gaming Commission. For the Kansas Lottery, the subcommittee concurs with the Governor's recommendations for FY 2011. The subcommittee did note that the Governor's recommended transfer of \$72 million into the State Gaming Revenues Fund is an ambitious goal and commend the agency's recent success with the new "Variable Imaged" pull-tabs. For Kansas Racing and Gaming Commission the subcommittee concurs with the Governor's recommendation. The subcommittee noted that no specific state auditing process has been created to monitor the agency and recommends some form of audit process be established to ensure the agency's accountability in its regulatory activities. The Committee adopted both reports. The Committee heard testimony on SB 481, a bill repealing the requirement that each county have a judge. Senator John Vratil testified that this bill would save money and make the court system more efficient. Four opponents, including three judges, testified. They stated this should not be done until a study on the system has been performed to determine the costs and implications of using judicial districts instead of counties.

No meetings were held on Wednesday and Thursday, due to the Senate turnaround schedule. A brief

meeting was held on Friday, February 19th to introduce two bills. SB 551 concerns the employment security law; creating an assessment for the payment of interest on advances received from the federal government. SB 552 concerns the employment security law, benefits, negative account balance employers and employer contributions.

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#### **Have a question? Contact me**

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