



Senator Jay Emler

Kansas Senate District 35

Thoughts from the Capitol

March 17, 2002

Jay Scott Emler, Kansas State Senator, 35th District

Commerce Committee

The Commerce Committee this week again attempted to determine a funding mechanism for Kan-Ed. Kan-Ed, if you recall, is the fiber optic network that would connect libraries, hospitals and schools. This, in my opinion, might be one of the means to help save small rural schools and their communities. No decision has been made on funding, yet.

The Committee also heard testimony on the Sunflower Army Ammunition Plant. This is the plant that was to be cleaned of toxic waste and become the Oz theme park. When Oz ceased to be a viable concern, Johnson County asked for this legislation so that the entire plant could become part of a planned expansion. The army has said that it will sell the land in small pieces if the county is unable to secure this legislation. My concern is that the state of Kansas not be held liable for cleaning the site. I do not even want the state to be responsible for attorneys' fees for the site, if litigation becomes necessary. We will hear more about this during this next week.

Utilities Committee

The Utilities Committee had a briefing by Homeland Security. This meeting was an executive session meeting so that the information received would not be subject to the open records act. There was, however, nothing that was discussed that was not public record or basic common sense.

The Committee also heard testimony on proposed legislation that would allow utilities to pass the cost of security measures on to the customers of the utility. Such action would require approval from the Kansas Corporation Commission.

Another piece of legislation would exempt security measures taken by utilities from the requirements of the Kansas Open Records Act. The thought is, of course, that we do not want to provide the information necessary for a terrorist to commit an act of sabotage upon a public utility. The legislation is opposed by the Press Association.

Finally, the Committee heard testimony on a sub-metering bill that would permit a landlord to bill each tenant for that tenant's actual water usage. Currently, in many areas, the landlord has a meter and pays for the water. The landlord then divides the charges however the landlord deems appropriate. I thought the bill made good sense, but it was not as well received as I had anticipated.



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Education Committee

The Education Committee passed Senate Bill 483 as amended to the full Senate for further action. SB 483 sends the special education monies to each school district, instead of sending it to the provider of the special education services. I know that sounds confusing, but there are some schools that provide the services to other school districts. Salina and McPherson are just two examples. The effect of this bill would have been very devastating to such schools as Salina and McPherson because the special education monies are run through those budgets. The actual dollar amounts of the local option budgets are based upon the regular budgets. With the removal of much of the special education money, districts like Salina and McPherson were going to see a marked drop in both the regular budget and the local option budget. SB 483 provides a mechanism for spreading the impact over three years instead of having it take place all in one year.

The Committee also heard a report from Legislative Post Audit on school district budgets. Post Audit indicated that there is a marked lack of uniformity in how school district budgets are put together. It is impossible to compare budgets because of that lack of uniformity. Post Audit recommended a study to develop a uniform mechanism for reporting school district budgets.

Reapportionment

The Senate Reapportionment Committee began discussions on a new map of the forty Senate districts. Substitute SB 379 was the original bill that passed the Senate 21-19 on February 14. That bill was subsequently vetoed by Governor Graves thereby sending the issue back to the Senate for a new map.

Committee chairman Senator David Adkins (R-Leawood) indicated his desire to have the Reapportionment Committee begin work anew on a Senate map. He has further stated his desire to have all senators who have specific ideas about their own districts to share their concerns with the committee. Several of his colleagues took up that offer at the initial meeting of the committee earlier this week.

The Senate will likely pass a new map sometime in the coming weeks, and then the House of Representatives and the Governor will have their respective chances to weigh in on yet another Senate map. In the event that the Legislature fails to pass a map, the courts would then intervene and draw the map.

The Congressional reapportionment map has not moved on the Senate calendar, but the House passed a map on Friday that puts McPherson and Marion counties back in the First District.

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Agriculture

The Senate Agriculture Committee heard the findings of a Legislative Post Audit report on the water structures program of the Department of Agriculture this week.

The Department of Agriculture's Water Structures Program regulates activities affecting the flow of rivers and streams, such as the modification of an existing stream channel, or the construction of a dam, levee, or bridge along or across certain waterways. The program is also responsible for assuring the safety of nearly all dams in Kansas that impound or hold back more than 30 acre-feet of water.

Auditors identified several findings of concerns. The first of two main concerns was the program's ability to issue permits for new structures and complete inspections of existing structures in a timely manner. Second, there is a question as to whether or not water structures are being built in Kansas without approved permits, and more specifically, are these un-permitted structures responsible for localized flooding in Sedgwick County.

Factors affecting the concerns relative to timely issuance of permits and inspections seem to revolve around the following:

- Several vacancies in the program and the unsuccessful efforts to fill these vacancies
- Lack of management systems and processes that would ensure better timeliness
- Uneven distribution of workload, specifically the program has too many dams to inspect with the current staff size. This is determined to be the result of Kansas law that defines dams differently than most other states.

The other main concern, viability of un-permitted structures, is the result of replacing several bridges in Sedgwick County. Local residents have complained about flooding after the new bridges were built. However, the audit report contends the replacement of these bridges wasn't likely the only reason for flooding in Sedgwick County. A 1996 Kansas Supreme Court ruling held that those who own bridges have the duty to avoid causing substantial injury to downstream property when bridges are replaced. This ruling caused auditors to recommend that the Department should reassess how the structures program staff issues permits in such cases.

The Agriculture Committee will continue to evaluate the water structures program and recommend changes in the near future.

Counties Get Alternatives

The Judiciary Committee passed out of committee HB 2630 allowing counties to collect medical expenses of prisoners from two different sources. Historically, when a prisoner was committed to a county jail in a criminal action, the county had to pick up any and all medical costs of the prisoner if a determination was made that the prisoner had no other resources. HB 2630 provides two possible avenues for the county to seek reimbursement for those medical expenditures. First, the county may seek reimbursement of medical expenses from the prisoner should the prisoner have the resources at a later date. Second, health insurance companies and health maintenance organizations authorized to do business in



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Kansas shall provide that the health insurance benefits applicable for covered persons shall also be payable with respect to such covered persons who are in the custody of any county held as a prisoner within that county. In short, counties may collect reimbursement for medical expenditures on prisoners from health insurance companies if the prisoners are clients of said companies. The bill is an attempt to address the increasing costs to county governments for the health care of prisoners.

I appreciate hearing from you. There are three convenient ways to contact me. You may write to me at:

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For those of you who want to write to me at my McPherson office or home, feel free to do so. It takes me a little longer, however, to respond because the letters and e-mail are forwarded to my Topeka office.