



Capitol Briefing



My Committees
Taxation
Transportation
Education Budget

Room 49 Docking State Office Bldg. 10900 W. 104th Street
Topeka, KS 66612 Overland Park, KS 66214
Office: 785-296-7698 Home: 913-492-2253

2009 E-News
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Gene Rardin
Representative 16th District

February 21, 2009 Forum Announced

You are invited to join a number of your local legislators, including Senator Tim Owens and myself for a public forum being held in the Overland Park Matt Ross Community Center from 10:00-11:30 a.m. on February 21, 2009. Agenda items include the budget, education and others to be determined. [Directions](#) (Ctrl and Click)

Session News Week 5: February 9-13, 2009

In This Issue (For easy navigation, press Ctrl and Click on desired link heading for more details)

- [This Week At The Statehouse](#) I am happy to report that we picked up the pace this week, at least a little. The halfway point of the session is next week, and time is running out.
- [FY 2009 Budget Update](#) There has been terrible infighting between the majority leadership in the House and Senate, which drastically slowed the process. A compromise was finally reached on Wednesday evening that included a 4.2 percent cut in all state agencies except K12 education. Instead, K12 education took a \$66 base state aid per pupil reduction, for a total cut of \$27.8 million in public education more than halfway through the school year
- [Civics 101: Conference Committees](#) Once a bill has passed both the House and Senate, it goes to what we call a conference committee. The purpose of this committee is to discuss policy differences between the House and Senate versions of a bill and arrive at an acceptable compromise.
- [House Tax Committee considers sales tax exemptions](#) The House Tax Committee kept busy this week considering a number of requests from various organizations to receive tax exemptions.
- [House Bill 2009 narrows tax exemptions for transmission lines](#) Last week, the House Tax Committee considered House Bill 2009, which will limit property tax exemptions for transmission lines to exclude lines that do not benefit and do not provide any services to Kansas.
- [Repeal of worker misclassification law proposed](#) The House Taxation Committee also held a hearing this week on House Bill 2175, which proposes to repeal the Kansas worker misclassification law. This law makes it unlawful for an employer to knowingly and intentionally misclassify an employee as an “independent contractor” in order to avoid paying employer withholding tax and unemployment insurance contributions.
- [Proposed amendments made to “Flee and Elude Statute”](#) Under current law, any law enforcement official must be “in uniform” and in an “appropriately marked vehicle” to stop an individual who attempts to flee or elude pursuing police. The problem with this language is that many of our law enforcement officials work as detectives and are frequently dressed in office attire while on the job.
- [Health and Human Services Committee considers health savings accounts](#) On Tuesday, the House Committee on Health and Human Services heard testimony on House Bill 2198. This bill requires insurers that offer health insurance to small businesses to also offer a high-deductible health plan. It also requires small employers to establish a health savings account in conjunction with the high-deductible health plan.

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- [House Transportation Committee Update](#) Secretary of Transportation Deb Miller visited with the House Transportation Committee this week, reviewing the challenges facing Kansas roads and discussing the Kansas T-Link program. T-Link, a task force created last summer, is charged with overseeing important state objectives such as keeping roads and bridges safe and in good repair, in addition to creating new approaches for Kansas' transportation future in light of the state's fiscal limitations.
- [House Education committee considers Abstinance Plus Education Act](#) This week the House Committee on Education held a committee on House Bill 2184, which establishes the Abstinance Plus Education Act. The bill would require that local school boards of education provide students a comprehensive education program in human sexuality.
- [Elections committee discusses possible constitutional amendment](#) The House Elections Committee held a hearing on House Concurrent Resolution 5010 on Wednesday, which would clarify and prescribe the method for filling vacancies of the offices of governor, lieutenant governor, attorney general, secretary of state, state treasurer, commissioner of insurance and other statewide elected offices, providing for more immediate input of Kansas voters in the fulfillment of mid-term vacancies
- [House committee considers dissolving Kansas Turnpike Authority](#) This week the Transportation Committee also held a hearing on House Bill 2178- abolishing Kansas Turnpike Authority (KTA), transferring its duties to Kansas Department of Transportation (KDOT).
- [Keep in Touch](#)
- [Page Visit](#)
- [Useful numbers](#)

This Week at the Statehouse

I am happy to report that we picked up the pace this week, at least a little. Most committees had a full schedule of hearings and we are finally starting to work some bills. The budget situation remains precarious, but I am still hopeful that we can pass some productive policy this year despite our fiscal limitations. The halfway point of the session is next week, and time is running out.

FY 2009 Budget Rescission Bill Update

As I mentioned last week, both the House and Senate passed versions of the FY 2009 Rescission Bill, which essentially cuts approximately \$300 million from the FY 2009 budget. The Senate passed the first version of the bill two weeks ago, but it was heavily amended on the House side last Wednesday. After the bill passed the House, conference committee negotiations began last Friday and continued most of this week.

There has been terrible infighting between the majority leadership in the House and Senate, which drastically slowed the process. A compromise was finally reached on Wednesday evening that included a 4.2 percent cut in all state agencies except K12 education. Instead, K12 education took a \$66 base state aid per pupil reduction, for a total cut of \$27.8 million in public education more than halfway through the school year. It also reduced special education funding by \$4.5 million.

There is no question that our budget is in crisis, but I could not support a bill that drastically and unnecessarily slashes public school budgets so late in the school year and takes money out of the state economy at a time when just the opposite is needed. Our children are our most important investment and providing for their education is our best opportunity to grow our struggling economy. There were many places

to trim the State General Fund and protect our most vulnerable citizens, but too many were unwilling to consider those options. The Senate approved a much more reasonable, bipartisan compromise that would only take \$33 base state aid per pupil and hold public education as harmless as possible. This proposal was blatantly ignored in the House.

It is also critical to remember that due to the school finance formula, a “\$66 base state aid per pupil” reduction fails to accurately reflect the actual cut many school districts will suffer. Due to weighting for At-Risk students, most districts will suffer reductions well over \$100 per pupil, with some districts even forced to cut over \$200 per pupil. Shawnee Mission sustained a \$105 per pupil reduction, for example. Under this proposal, 48 school districts statewide (almost all rural) will be operating in the red by July 1.

Now, the bill heads to the Governor’s Office for her careful consideration. We expect she will make a decision early next week. Ultimately, we must finalize the FY 2009 budget as soon as possible so we can begin the daunting task of working through the FY 2010 budget. The session reaches its halfway point next week. A lack of leadership and compromise has prevented the Legislature from even beginning to address the overwhelming challenges that await us in 2010.

Civics 101: Conference Committees

Because the legislative process can be a bit confusing, I thought it would be helpful to include a little more information about what happens to legislation after it passes both chambers. Once a bill has passed both the House and Senate, it goes to what we call a conference committee. The purpose of this committee is to discuss policy differences between the House and Senate versions of a bill. The committee is composed of three members from each chamber who work to reach an agreement that will be acceptable to both houses.

Conference committees are limited to considering only matters which have been included in the bill or in bills which have been passed in one or both houses. This process can sometimes be quite time consuming, especially with budget bills, and may require several rounds of negotiation.

If a conference committee is unable to reach agreement, it must report so to the house of origin. A new conference committee must be appointed or the bill is deemed “killed.” If the conference committee agrees upon the content of a bill, which may include amendments, it is presented to both houses for consideration.

At this point, only up or down votes are permitted- the bill cannot be amended further in either chamber. If the agreement is adopted, it goes to the governor for signature or veto. In budget bills, the governor retains the authority to line-item veto, meaning she can approve the bill overall but veto specific provisions.

House Tax Committee considers sales tax exemptions

The House Tax Committee kept busy this week considering a number of requests from various organizations to receive tax exemptions. Some organizations before the committee this week included the All American Beef Battalion, Kansas State Firefighters Association, the Stephanie Waterman Tennis Foundation, the Golden Belt Community Concert Association and the Steve King Foundation.

Each year the House Tax Committee hears from a variety of noble and worthy organizations to request sales tax exemptions. Under normal circumstances I am more than willing to consider these requests. In a year when public schools and services for the physically and developmentally disabled are on the chopping block, however, I am reluctant to support any further reduction to state revenues.

There are currently 24,000 nonprofit organizations in Kansas, 14,000 of which have not yet applied for tax exempt status. Although the House Taxation Committee will continue to consider requests for sales tax exemptions, it is apparent that Kansas is in dire need of a more stringent set of requirements to qualify for this privilege.

House Bill 2009 narrows tax exemptions for transmission lines

Last week, the House Tax Committee considered House Bill 2009, which will limit property tax exemptions for transmission lines to exclude lines that do not benefit and do not provide any services to Kansas. The bill would also prohibit an ad valorem property tax exemption for electric transmission lines and appurtenances, which are used only by utilities located outside of the state for the transmission of electricity to out-of-state consumers or to out-of-state utilities.

The Department of Revenue indicated that it knew of only one proposed electric transmission line that would be affected by this bill. Because the bill provides that certain property would no longer qualify for a property tax exemption, it will primarily increase local property tax revenues. The bill did not, however, provide information on the value of the proposed transmission lines and therefore could not provide the exact increase in revenues that would result from the elimination of the property tax exemption.

There were no opponents to the bill at the hearing.

Repeal of worker misclassification law proposed

The House Taxation Committee also held a hearing this week on House Bill 2175, which proposes to repeal the Kansas worker misclassification law. This law makes it unlawful for an employer to knowingly and intentionally misclassify an employee as an “independent contractor” in order to avoid paying employer withholding tax and unemployment insurance contributions.

The current statute allows the Department of Revenue and the Department of Labor to share information about employers suspected of violating the law and also allows them to work together to perform necessary audits or investigations. This statute not only cracked down on unscrupulous employers who skirt the law, it also resulted in \$204,235 in unpaid employment taxes from these employers. House Bill 2175 would effectively repeal the misclassification investigation program between the two departments.

The bill was vigorously debated. Supporters of the bill argue that the law is unnecessary, inefficient, and unable to make determinations based on defined standards of what constitutes an “employee.” They contended that investigating intentional misclassifications does not require its own division. They also stated that a lack of uniform standard for determining intentional misclassifications and for identifying those to audit makes the law unfair.

Both the Department of Revenue and the Department of Labor were adamantly opposed to the bill. Worker misclassification is a serious problem that results in the loss of significant tax revenue. When employers intentionally misclassify workers, it forces Kansas businesses and workers who play by the rules to make up the difference. The current law creates a coordinated effort between the departments to address this issue. House Bill 2175 would dismantle this coordinated effort.

Other opponents argued that eliminating the crime of worker misclassification is nonsensical. It would not only allow unscrupulous employers go unpunished for evading taxes, it would reward them by giving them a competitive edge. Additionally, repealing the misclassification law would eliminate \$3 million in lost tax revenue from the FY 2010 budget, in a year when we already face close to a \$1 billion deficit.

Proposed amendments made to “Flee and Elude Statute”

The House Corrections and Juvenile Justice Committee held a hearing on House Bill 2235 on Thursday, which proposes to amend K.S.A. 8-1568, also known as the “Flee and Elude Statute.”

Under current law, any law enforcement official must be “in uniform” and in an “appropriately marked vehicle” to stop an individual who attempts to flee or elude pursuing police. The problem with this language is that many of our law enforcement officials work as detectives and are frequently dressed in office attire while on the job. Though they always carry official badges and appropriate identification, they may not always wear official uniform. Additionally, law enforcement frequently drives fully equipped- but unmarked- law enforcement vehicles.

The Attorney General’s office testified in favor of this bill. Kansas appellate courts have consistently held that all criminal law statutes will be strictly construed against the State. In regard to K.S.A. 8-1568, this has provided multiple opportunities for felony offenders to evade the law if they are stopped by a detective who happens to be without uniform or driving an unmarked vehicle- even though law enforcement officials were acting completely within their authority.

House Bill 2235 proposes to clarify the statute language in a way that both fairly protects the citizen and better allows law enforcement to respond to criminal activity. The bill amends the statute to require official uniform or an appropriately marked vehicle. It also clarifies the definition of “appropriately marked vehicles,” allowing vehicles equipped with functional emergency lights or siren or both to qualify under this category.

As a citizen and a lawmaker, nothing is more frustrating than watching non law abiding individuals circumvent justice on a technicality. House Bill 2235 refines language to prevent this from happening under K.S.A. 8-1568. The recommended changes are a fair compromise between the need to safeguard suspects and the need to better enable law enforcement to do its job.

Health and Human Services Committee considers health savings accounts

On Tuesday, the House Committee on Health and Human Services heard testimony on House Bill 2198. This bill requires insurers that offer health insurance to small businesses to also offer a high-deductible health plan. It also requires small employers to establish a health savings account in conjunction with the high-deductible health plan. For any health plan offered on or after January 1, 2010, if an employee chooses the high-deductible plan with the health savings account, the employer is required to give a contribution equal to the employer’s contribution to any other health plan offered. This contribution would be deposited monthly into the employee’s health savings account. The bill would not apply to larger employers with large-group health plans. It is an expansion of last year’s Senate bill 81.

Supporters of the bill said it places the emphasis on individual accountability and responsibility. Additionally, they argued that people enrolled in high-deductible plans were more likely to research treatment options and take part in wellness programs. Other supported the general concept of high-deductible plans, but not as a mandate for small employers.

Much of the opposition to the proposal was centered on the argument that a mandate would force small employers to take on what could be a heavy financial responsibility. There were concerns that this policy would be a direct violation of the federal ERISA law which maintains that states cannot require an employer to do anything regarding health benefits. Currently, Massachusetts is the only other state to enact a law of this

nature, and many believe that it is likely in violation of the federal law even if it has not yet been challenged in court. Some also expressed concern about the difficulty of calculating the employer's contribution and the high costs of high-deductible plans to employees. There were recommendations to offer support and incentives to employers who want to offer high-deductible plans, but not requiring it by mandate.

Transportation Committee Update

Secretary of Transportation Deb Miller visited with the House Transportation Committee this week, reviewing the challenges facing Kansas roads and discussing the Kansas T-Link program. T-Link, a task force created last summer, is charged with overseeing important state objectives such as keeping roads and bridges safe and in good repair, in addition to creating new approaches for Kansas' transportation future in light of the state's fiscal limitations.

The committee discussed Kansas highways during Tuesday's meeting, with particular emphasis given over the projected condition of roads in the coming years. In 2008, 83% of Kansas highways were deemed in "good condition," though that number is expected to drop to 49% by 2019. There are currently 130,000 miles of local roads and 20,500 bridges in Kansas, and while the most traveled highways have been modernized, the Department admitted it has fallen behind on capacity needs. To combat this lag, the state plans to develop a strategy worth \$200+ million for mega projects such as the I-35/I-435/K-10 interchange. Additionally, KDOT is considering various improvement projects for the highway systems that would help create 4-lane highways instead of two-lane highways. T-Link projects that it will meet 66% of its funding needs to further the objectives of preserving, modernizing, and meeting capacity impacts on Kansas roads.

Other transportation methods such as public transit, rail, and aviation were also discussed. Currently, 21 Kansas counties lack any public transit, which is particularly troublesome for the baby-boomer generation which is nearing retirement. KDOT suggested implementing a regional approach to the problem, introducing a new set of standards for each region to meet in order to receive state funding.

While Kansas currently ranks fifth in U.S. transportation systems, this ranking may drop without financial intervention from the state. KDOT estimates a gap of \$55 million per year in preservation and maintenance of Kansas transportation systems. To help ease this gap, T-LINK has generated a number of possible solutions, including a motor fuels sales tax increase, reducing or removing the aviation fuel sales tax exemption, and utilizing gaming revenues.

House Education committee considers Abstinence Plus Education Act

This week the House Committee on Education held a committee on House Bill 2184, which establishes the Abstinence Plus Education Act. The bill would require that local school boards of education provide students a comprehensive education program in human sexuality. The program must emphasize the benefits of abstinence, while including information about sexually transmitted diseases and pregnancy prevention. Local boards of education would determine the specific curriculum of the program and the grade levels that would participate.

Concerns may be raised about the costs of the Act. The Division of the Budget says that House Bill 2184 would have no fiscal effect on state operations. Any costs associated with the program would be incurred on the school district level. Some religious concerns may also be raised; however, the Act includes a provision in which any student whose parent or guardian requests, shall be excused from any or all portions of the program without any penalty resulting from the action.

Elections committee discusses possible constitutional amendment

The House Elections Committee held a hearing on House Concurrent Resolution 5010 on Wednesday, which would clarify and prescribe the method for filling vacancies of the offices of governor, lieutenant governor, attorney general, secretary of state, state treasurer, commissioner of insurance and other statewide elected offices, providing for more immediate input of Kansas voters in the fulfillment of mid-term vacancies.

If it is approved, the resolution will change the procedure for replacing the attorney general, lieutenant governor, state treasurer, secretary of state, or commissioner of insurance when a vacancy occurs. It would revoke the governor's authority to appoint replacements to statewide offices vacated mid-term. Instead, it would allow resemble a process similar to the county process for filling vacancies, which means a state central committee of the political party held by the previous officeholder would elect a replacement until the next general election following the vacancy.

Because this is a constitutional amendment, this proposal it will require a 2/3 vote of both houses, followed by a vote of the people in order to take effect.

House committee considers dissolving Kansas Turnpike Authority

This week the Transportation Committee also held a hearing on House Bill 2178- abolishing Kansas Turnpike Authority (KTA), transferring its duties to Kansas Department of Transportation (KDOT).

Currently, KDOT maintains over 10,000 miles of road and KTA maintains 236 miles of road. KTA and KDOT purchase the same materials and operate under the same structure costs. With the lack of state funding and need for significant budget cuts, the transfer of hands could create more revenue for the state. If a transfer were to take place, the roads would remain toll roads and tolls would remain low. These tolls would go toward upkeep, repair, paying off debt and other state projects. This bill would ensure that the upkeep of toll roads would not change as a means of maintaining the current level of toll road use.

Those in opposition of the bill voiced concerns about raising toll prices, expenses resulting from the transfer, how transfer would affect the trucking industry, and how KTA debt would transfer. There were many neutral comments that supported both sides of the issue. A number of questions were raised about possible consolidation of administrative positions between KTA and KDOT, in addition to inquiries about how the additional state funds would be allocated.

In this difficult budget year, all proposals for streamlining government should be on the table. The state must consider all options and carefully weigh both the negative and positive consequences of these proposals.

Keep in Touch

It is a special honor to serve as your state representative. I value and need your input on the various issues facing state government. Please feel free to contact me with your comments and questions. My office address is Room 49, Docking State Office Building, Topeka, KS 66612. You can reach me at (785) 296-7698 or call the legislative hotline at 1-800-432-3924 to leave a message for me. Additionally, you can e-mail me at Gene.Rardin@house.ks.gov. You can also follow the legislative session online at www.kslegislature.org

February 5, 2009 Page Visit

On February 5th Students from Harmony Middle School served as House Pages.



Pictured Left to Right: Michelle Chen, McKenzie Oldson and Tyler Johnson

Useful State Numbers and Resources:

The following is a list of the numbers I receive the most requests for during the legislative session. You can find these as well as many others online at <http://da.state.ks.us/phonebook>. I hope you will find this information helpful.

Kansas Jobs (785) 235-5627	Tax Refund Status Info (800) 894-0318	Taxpayer Assistance (800) 259-2829
Highway Road Conditions (800) 585-7623	Unclaimed Property (800) 432-0386	Governor's Constituent Svs. (800) 748-4408
Crime Tip Hotline (800) 572-7463	Driver's License Bureau (785) 296-3963	Kansas Department on Aging (800) 432-3535
KPERS (888) 275-5737	Housing Hotline (800) 752-4422	Vital Statistics (785) 296-1400
Legislative Hotline (800) 432-3924	Voter Registration (800) 262-8683	Crime Victim Referral Service (800) 828-9745
Child/Adult Abuse Hotline (800) 922-5330	School Safety Hotline (877) 626-8203	Kansas Lottery (785) 296-5700
Welfare Fraud Hotline (800) 432-3913	Consumer Protection (785) 296-3751	Insurance Consumer Assistance (800) 432-2484