



May 29, 2011

Carlin's End of Session Newsletter:

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Dear Friends and Neighbors,

The Kansas Legislature has completed the 2011 Legislative Session. As expected, it was another difficult year filled with complicated and controversial issues. After working through the night, we adjourned at 6:00 AM on the 90th day of the session, Friday the 13th of May.

Kansans made it clear in the 2010 Election that job creation and economic recovery was their # 1 priority. The people that I heard from during this session wanted me to protect their children's education, meals for seniors, friends and family members living in the Kansas Neurological Institute, the Arts in Kansas and jobs at K-State. People struggling with these fears and possible losses were amazed that the House and its leaders spent so much of the session on social issues such as women's reproductive issues and strip club regulations.

I deeply appreciate the contacts I received from you in recent months. I worked hard to ensure the interests of our district were addressed under the Dome. If I can ever be of assistance to you or your family, please do not hesitate to contact me at home 785-539-6612 until January and then at my Capitol office 785-296-7657 or You can e-mail me at sydney.carlin@house.ks.gov and review my website, www.sydneycarlin.com. Or look for occasional updates on Twitter or Facebook during the break between now and January. If you haven't already, I hope you will contact me to sign up for occasional e-mail updates.

Thank you again for your feedback and support. It is an honor to serve you and I look forward to continuing our work to improve this great state.

May State General Fund Receipts Over Projections

More good news on the State General Fund tax receipt front! With one day left for processing we are \$39 million above the estimate for May. So for the year-to-date (this information is all through May 27) that would place us ahead of the estimate by \$61 million. The growth continues in individual income taxes, but with some weakness still in retail sales.

Individual income taxes for the month were above the estimate by \$55.9 million. That puts us above the year-to-date estimate by \$90.9 million or 3.9 percent. Individual income tax receipts include the one-time payment from three tax payers (most likely for capital gains) that totals \$46.0 million. Retail sales for the month are down by almost \$15 million or 8.5 percent. We should have some additional retail sales tax receipt deposits on Tuesday. However, for year-to-date receipts for retail sales we are down \$23 million or 1.3 percent.

FY 2012 Budget Debate - Not a "victory"

The main responsibility of the Legislature is to pass a budget. After eight years of Democratic governors, the Republican-controlled Legislature had a fellow Republican, Sam Brownback, as governor this year. The 2010 elections put 92 Republicans in the 125-seat House, and there are 32 Republicans in the 40-seat Senate. Next year all 165 seats in the Legislature will be up for grabs. Sine Die, marking the formal end to the session, will be June 1

The Legislature started with a \$500-million-plus deficit. It wrapped up its work on time, with a 2012 budget that includes an approximately \$50 million cushion. Actual spending cuts were \$881 Million over last year, required in part because the federal stimulus funds have disappeared.

K-12 Education was cut \$100 Million (\$232 per student which leaves \$3780/BSAPP) – 5.8% below 2011 and 14% less than 2008-09 aid when we started trimming the budgets. General funding per pupil is \$6764 or 11% less

than 4 years ago. School districts across the state will be forced to close buildings – cut personnel (2295 jobs) 3% since 2008-09.

Higher Education was cut \$40 Million, plus other across the board cuts. State employees were a target but we managed to spare most of the cuts discussed.

KAN ED provides internet connectivity to schools, libraries and hospitals for 443 sites across Kansas this year's budget will cut from \$10M to \$6M.

Since the economy plummeted in 2008, Kansas government has operated under extremely difficult circumstances. When revenues started to decline in July of 2008 Governor Sebelius began to make cuts in the budget before we returned to the Capitol in January of 2009. Between 2009 and 2011 we cut state spending by over \$1.2 Billion, and again this session we grappled with a \$550 Million budget gap. After three consecutive sessions reduced spending now amounts to about \$1.75 Billion. With these cuts comes tremendous pressure on citizens, counties and cities.

The Republican passed budget will cut at least 6600 state supported jobs this year putting people out of work. These are people who go to the store, and buy cars, and refrigerators and food and do all the things that keep the economy going.

Republicans say that they laid the groundwork through tax and spending cuts to allow the private sector to thrive and create more jobs. The cuts affected 374 direct state jobs in 2011 and the 2012 budget cuts another 1963 – not counting school district jobs. Over 1600 teaching jobs were lost last year and this budget will cut another 1600–1700 this year.

Budgets are about our priorities. They're about people. Governor Brownback and Republican legislative leadership declared this budget as a "victory" for Kansas. Victory implies that there are winners. This budget demolishes many important investments in state workers, education, children and senior programs. With so many people struggling, out of work, and reliant on state services, I'm having a hard time seeing any winners here. Even before I knew how they would cut another \$20 Million out of SRS, I voted against the plan.

VOTER IDENTIFICATION HELD OFF UNTIL 2013

The Legislature approved a controversial elections reform bill this year aimed at preventing voter fraud. House Bill 2067, which passed both the House and Senate and was signed into law by the Governor, mandates that every voter present a valid form of photo identification prior to participating in an election. Individuals who do not have a form of photo ID may be issued one at a cost of \$14, or \$10 for persons who are disabled or over the age of 65.

Proponents fear that individuals could vote multiple times with false identities without photographic proof of identity. Individuals who do not have a driver's license will be able to purchase identification cards from the state.

The opponents argue that this legislation will suppress voter turnout. Although many people carry photo ID, statistically, most people who don't carry ID cannot afford to drive. The law would unfairly skew elections by placing an additional barrier to voting for those unable to afford identification.

The good news is that the bill was amended and improved from the original version due to efforts in the Senate. Portions of the bill that would give the Kansas Secretary of State unprecedented powers to prosecute instances of voter fraud were removed. Also, the law's implementation was delayed until 2013 in order to give citizens and government agencies time to implement the program to reduce the costs. Controversial components of the bill will probably be thrown out in court.

Illegal Immigration:

Illegal immigration was a recurring theme this year. House Bill 2372 – modeled after Arizona's controversial immigration law - was one of the most extreme pieces of immigration legislation presented this session. The bill would have required officers to ask for proof of citizenship from anyone they suspected might be in the United States illegally.

The measure, which was introduced by Secretary of State Kris Kobach, was widely criticized as "grossly broad." Hundreds of justifications could be used in pulling over or interrogating any individual and demanding proof of residency. This legislation has been challenged in many other states, resulting in millions of dollars in litigation fees. Some law enforcement officials called the bill an unworkable, expensive, unfunded mandate that cities and counties couldn't afford and were ill equipped to enforce.

I am fully committed to fighting illegal immigration as effectively as possible at the state level, but I think this proposal misses the mark. House Bill 2372 failed to gain traction in the House and will not become law in Kansas...yet. I expect that the effort will be revived again next year.

Paycheck Protection Bill:

This year, national news outlets spent months focusing on efforts of the governor of Wisconsin to dismantle organized labor. But Wisconsin wasn't the only state where anti-worker legislation was introduced. Legislators in Kansas also

attempted to impede the ability of labor organizations to participate in the political process. Most notably, House Bill 2130 would have removed the ability of union members to donate to political action committees directly from paychecks.

Proponents of the bill claimed that union members currently have no control over the funds taken from their paychecks. That claim is absolutely false. Expressed, written permission must be given to automatically deduct funds from any paycheck. And, that permission can be revoked at any time. The organizations are structured to ensure that members have a say in political actions. Members of labor organizations are encouraged to engage in a democratic process when choosing which policies or individuals to support.

House Bill 2130 was an attack on working people. The government should never be allowed to dictate how you support candidates and issues dealing with government. This is a violation of first amendment rights. House Bill 2130 passed the House but stalled in the Senate Ethics and Elections committee. It could come back next year. It could come back next year.

Smoking ban in Casinos:

Effective July 1st, 2010 the Indoor Clean Air Act began protecting Kansans from harmful secondhand smoke by banning smoking in public places, any place of employment including restaurants and bars, and access points of all buildings not exempted.

Specifically, state-owned casinos are currently exempted from the law. I was always concerned about the hypocrisy of exempting state owned casinos and supported the bill that did away with it. I feel that the change makes the law much fairer to privately owned businesses.

As expected, there was an effort on the House floor to repeal the Indoor Clean Air Act altogether. There is no risk-free exposure to cigarette smoke. Tobacco-related diseases cost Kansas nearly \$200 million annually in Medicaid costs and are the number one cause of preventable death. Not only does this law protect innocent Kansans from harmful secondhand smoke, it also saves our state millions of dollars at a time when we have no dollars to spare. Repealing the law made no sense.

After the amendment to repeal was defeated, Sub HB 2340 passed the House on final action by a vote of 97-26. Unfortunately, the proposal stalled in the Senate. I hope – and would support – an attempt next year to eliminate the casino exemption.

Seat Belts and Speed limits and Motorcycles:

Three bills were compiled in a conference committee report – to ensure that all three passed.

1) Last year the Legislature approved a primary seat belt law, which included a fine of \$5 for individuals who were stopped for failing to wear their seat belts. However, over the last year municipal lawmakers have increased fines. In some areas, folks are paying upwards of \$90 for violating this law. That was not the legislative intent. **House Sub SB 213** makes a \$10 fine uniform throughout the state.

2) The other component of this bill raises **speed limits to 75 miles per hour July 1**. Proponents cited other states that had higher upper ceilings on speed limits reported no increase in auto accidents. Increasing speed limits would save time spent in commute, which has an overall positive economic impact.

3) This bill also includes a “**Dead Red**” provision, allowing the driver of a motorcycle or the rider of a bicycle to proceed (after coming to a full stop) through a steady red signal, subject to other traffic rules governing right of way, if the red light has failed to change to green within a reasonable period of time because the signal has malfunctioned or has failed to detect the vehicle. The driver or rider must yield the right of way to any vehicle in the intersection or approaching that constitutes an immediate hazard, to any pedestrian lawfully within an adjacent crosswalk, and to any other traffic lawfully using the intersection.

Legislature takes aim at drunken driving:

After working all session to strengthen the state’s penalties for drinking and driving, an agreement was reached at the end of the session to put in \$2.5 million to develop a system to track drunken-driving offenses statewide. Those dollars, combined with a \$250 across-the-board increase in fines, are a key component of a DUI bill that has been in the works for three years.

The new law will also require interlock devices for first-time offenders and will set up a central repository to track DUI offenses across the state. Interlock devices won't allow the car to start if the driver's blood alcohol level is half the legal limit or greater. The driver's levels also are randomly tested while the car is moving. Many argued that tougher sanctions on first-time offenses would then cut down on second offenses. Anyone who currently has a licensed revoked due to a DUI offense can apply to utilize the provisions of this law after July 1 when it goes into effect. There will be a \$100 application fee and the Vehicle Department is working to have the rules and regulations on this process ready by July 1.

According to testimony given at the committee hearing, between 50-75% of drunk drivers whose licenses are suspended continue to drive. Interlock reduces

repeat drunk driving by an average of 67%. Use of the device allows DUI offenders to continue to drive to work and be productive members of society while preventing incident recidivism. Every life saved or injury prevented by the device translates to millions of taxpayer dollars.

KPERS

One of the three core responsibilities of the state that has a significant impact on the budget is the KPERS retirement plan. Currently, KPERS is only 56% funded. An 80% funded ratio is considered stable; anything below 60% is considered serious and in prompt need of action. Our low ratio was caused by decades of underfunding by the Kansas Legislature.

There were essentially two options presented for addressing this crisis. The first is focused on decreasing the unfunded liability of the KPERS system by increasing both employee and employer contributions. The second proposal is to drastically change KPERS by moving to a defined contribution – or a 401(k) style - retirement system.

State officials have told us that in order for the retirement plan to support a change to the 401K system it needs to be 90% funded. Additional strain would be placed on the budget due to the administrative costs of implementing this kind of new plan. The change would also not apply to current KPERS recipients or those who are currently paying into the defined benefits plan, which means the state would be operating two retirement systems at once.

The proposed time frame would not lead to any significant change for many years. For those affected by the change it would cut retirement benefits. In a state that already pays its employees far less than the private sector or other states with similar retirement plans, the legislation would also shift the financial risks to retirement benefits, in times of recession, from the state to the employee.

Supporters of a 401(k)-style plan contend the state can't sustain traditional KPERS plans, which guarantee benefits up front based on a worker's salary and years of service. They say that until benefits are based on investment earnings, as they are in a 401(k) plan, each new employee adds to the pension system's long-term funding problem.

The final agreement of the Legislature met somewhere between those two proposals. The measure boosts the state's annual contributions to the Kansas Public Employees Retirement System starting in July 2013 (by only .4% year), phasing in a \$28 million annual increase over four years (1.6%). It also will require public employees to choose between paying more (.2% year) of their salaries toward their retirement benefits or having their future benefits cut.

Finally, the bill passed this session establishes a commission to study whether the state should move toward a 401(k)-style plan. The 13-member commission will have a 7-member majority party representation (those who more likely favor the Governor's plan to move to a defined contribution plan). I hope they remain impartial and look at all the facts – thousands of Kansans are relying on them to help find a solution to this problem. Addressing KPERS' long term funding issues will be an ongoing process, but until the legislature starts to pay its full share each year the problem cannot be solved. This year's budget actually borrows another \$10 Million from KPERS Death and Disability fund.

In time we will see if the majority decision to make a small movement in addressing the unfunded liability and having another study commission was the right one. Many were hoping for a more aggressive move toward a change in the retirement system for new employees that come to work in 2013 and beyond as well as a more defined scope for the study commission. This did not happen. The study commission will investigate the status quo, defined benefit, and defined contribution, a blend of these two and of course any other options for providing retirement benefits for our state employees.

KNI Remains Open

Early in the session, Governor Brownback proposed the elimination of Kansas Neurological Institute in Topeka, transferring the residents to community settings or to the Parsons State Hospital in southeast Kansas. This facility is home to 168 of the most severely developmentally disabled people in Kansas. He wanted to begin the closure process during fiscal year 2012, which begins July 1.

Arguments in support of closing KNI focused around the closure committee recommendations for increased reliance on home community based services and the estimated savings that would occur from providing services to KNI residents in their local communities. They also argued that KNI would eventually close its doors because of the dwindling population care at the facility.

Opponents argued that there were not enough local resources to adequately provide care to current KNI residents and that there would be no true cost savings because of increased hospitalizations (most KNI residents require 24/7 care). One of the stronger arguments focused on the fact that the most residents have lived at KNI for at least ten years and an average of 40 years. More than 80 percent cannot speak and one-third can't eat through normal means.

Parents and advocates testified before the health committees in both the House and Senate to support keeping KNI open. The Legislature agreed. During the budget debate on the House floor, an amendment was offered to restore KNI funding by deleting state purchases of bottled water and office supplies. That amendment passed 105-14 and was adopted in the final budget agreement.

Gov. Brownback abolishes Arts Commission

A few weeks into the legislative session, Governor Brownback signed an executive reorganization order to formally abolish the Kansas Arts Commission. The Arts Commission allocated federal and state arts money to local organizations and artists. In an effort to save state funds, Governor Brownback eliminated the Commission with intentions to replace it with a private, non-profit organization.

I strongly opposed this move. Eliminating the Arts Commission's budget saved the State General Fund \$689,000, but at the cost of potentially losing \$1.2 million in federal arts funding. It eliminates support for 35,000 jobs in Kansas. These jobs provide a \$150 Million plus industry and generate \$15 Million a year in state and local government revenue. K-State is expected to lose \$22 Million for the arts. From an economic perspective, the arts bring in tourists, rejuvenate entire neighborhoods, and can bring people to a city; increasing the tax base and helping our state grow. Art related non-profits employ nearly 4,000 Kansans; eliminating this funding puts those jobs at risk.

Kansans from across the state wrote, called and rallied to show their support for maintaining the KAC throughout the session. The Legislature rejected the Governor's ERO and included funding for it in the FY2012 budget. Then, in an unprecedented, unexpected move, Gov. Brownback notified all five employees of the Kansas Arts Commission that their jobs would be eliminated in early June. This gave a strong indication that the governor intended to line item veto funding for the Arts Commission, despite the strong opposition of the Legislature and the people of Kansas.

Throughout our history, governments have supported the arts because they recognize the long-term role that the arts play in society. Even during WWII, when times were incredibly difficult and lawmakers wanted to cut arts funding in Great Britain, Prime Minister Winston Churchill could only respond with "Then what are we fighting for?"

Kansas will be one of just two states in our country without an Arts Commission.

New Road Projects Announcement

Dozens of major highway expansion projects that will have significant safety and economic benefits will be announced during the governor's five-city tour the week after Memorial Day. The projects, located in every region of the state, will be funded under the state's one-year-old transportation program T-WORKS. In February, the Governor announced the first three major expansion projects.

“These projects will create jobs and provide an immediate boost to local businesses during construction. But in the long term, they also will provide the infrastructure needed to create or take advantage of economic opportunities that will have a lasting impact on the Kansas economy” Governor Brownback said. These projects and these jobs are being made possible by the temporary increase in sales tax passed one year ago.

These projects and the jobs they create are a direct result of the bump in sales tax that began under the leadership of Gov. Parkinson last July 1. The jobs that this action has provided will put Kansans back to work and strengthen the transportation system in Kansas. Announcements of projects will take place in Wichita, McPherson, Dodge City, Fort Scott and Kansas City, Kansas.

In closing

I am still available to speak before clubs, groups and attending wrap up sessions for various organizations. If you care to have me come to your organization or “coffee klatch” just give me a call.

My summer legislative activities will include some interim committee assignments not yet announced, a couple of conferences, and visits to your doors. I like to drop in at the Senior Center, the Baseball parks and Chamber after hours events, and local businesses. I am co-chair of Project Manhattan, a summer food collection event that was started when I was on the City Commission. This gives me an opportunity to find out what is on your minds.

Like many of you, the state legislators are looking for a little time off, perhaps a vacation, and a chance to reconnect with family after serving in Topeka since early January. I remain at your service and should an issue arise that I can be of help please do not hesitate to give me a call.

Thanks for all the comments, messages of support and even the criticism throughout the session. I consider it an honor and privilege to be your Representative in Topeka and I do want to know what you think.

Sincerely,

Sydney Carlin, 66th District