



Free Press Viewpoint

Will smoking ban increase the fumes?

The much-talked-about statewide smoking ban advocated by Governor Mark Parkinson has some crying foul.

The law, if enacted, would allow some smoking inside public buildings, provided the smoking sections are separate and are well-ventilated. Restaurants would also be able to pay a fee to have smoking and non-smoking sections. But what is ranking some folks is that the state law would overturn the stricter smoking bans enforced by some Kansas cities.

The issue then is municipal sovereignty vs. state sovereignty. Who has precedence? If we, the citizens of Colby, decide we want a stricter smoking ban – say, not allowing anyone to smoke or sell tobacco within the city limits – should we be allowed to have it?

On the other hand, if we wanted a more lenient smoking ban, or none at all, should our wishes trump the state's?

It's an old argument with its roots in the state vs. federal sovereignty argument that our founding fathers struggled with as they were building a nation. Indeed the Articles of Confederation, which placed much more power in the hands of the state, failed miserably.

Ironically, the Kansas Senate Judiciary Committee just passed a non-binding resolution affirming that the state's power to govern itself is protected by the 10th Amendment of the U.S. Constitution. It is true, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," or more plainly, anything the federal government doesn't do the states do.

This resolution was aimed at the national health care initiative currently floundering in the U.S. Congress, specifically provisions that would require people to purchase insurance. What they really wanted to do was assert that states should be able to decide these issues for themselves.

If we state in principle – the resolution is non-binding after all – that state powers should trump federal powers, wouldn't by that same principal cities and counties trump the states? How far does power trickle down? Or does it trickle up?

We've dealt with similar issues in Kansas before. The 21st Amendment of the U.S. Constitution repealed the prohibition of alcohol, but to this day we have many dry counties. In fact, Kansas had the second-longest prohibition law in the country; it officially ended in 1948 with an amendment to our constitution. Each county had to approve it, or else they were still allowed to prohibit the sale of alcohol. Some approved it with restrictions, and some, including our neighboring Sheridan and Wallace Counties, never approved it.

Maybe this is the route we should go with the smoking ban. Allow counties or cities to decide whether they want it, or whether they want a stricter version of it. It's a similar issue after all, restricting the use of a substance that can cause harm to others.

On the other hand, precedence can be a slippery slope. What if a city or a county wanted to reestablish segregation? Should they be able to in the name of municipal sovereignty?

In any case, established politicians of any stripe rarely do anything that would limit their own power. We must be prepared for a weak smoking ban and no hope of anything better from the city or county level.

– Kevin Bottrell

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Obama doesn't kowtow to liberals

Republicans and many Democrats are convinced President Barack Obama's declining popularity stems from him being too beholden to American liberals and progressives.

Indiana Democratic Senator Evan Bayh has loudly expressed his concern about the influence liberals and progressives have on the Obama administration.

"Whenever you have just the furthest left elements of the Dem party attempting to impose their will on the rest of the country – that's not going to work too well," said the senator.

Lanny J. Davis, special counsel for President Bill Clinton from 1996 to 1998, wrote an op-ed column in the *Wall Street Journal* blaming liberal Democrats for Republican Senator Scott Brown's victory over Democrat Martha Coakley in Massachusetts. Davis blames the loss on liberals who wouldn't support the health care bill if it didn't include a public option.

"The question is, will we stop listening to the strident, purist base of our party who seem to prefer defeat to winning elections and no change at all if they don't get all the change they want," he said in the column.

Listening to all this talk got me to thinking that I may have missed something. Had progressives gone from a being small group with virtually no influence in the halls of Washington to an overpowering force in politics with-



Andy Heintz

• Wildcat Ramblings

out me noticing?

So I studied Obama's positions on two important areas – health care reform and foreign policy – and I compared them to the positions championed by progressives to see if they resembled each other in any way. The results of my research have convinced me that conservative Democrats and Republicans have nothing to worry about. For better or worse, progressive views have almost no influence on the president.

On foreign policy the president's administration has taken several positions opposed by many, if not most, progressives. These positions include sending more troops to Afghanistan, supporting drone missile attacks in Pakistan that have killed hundreds of civilians, increasing military spending, and refusing to sign the international antipersonnel land-mine ban that has been signed by over 150 countries.

On health care reform the left is generally disappointed with the bill being pushed by the White House. Most progressives were in favor of a single-payer health care system, but many were willing to accept a bill that included a public option. But the current health care bill doesn't include either of these things. While most liberals would agree requiring insurance companies to cover people with pre-existing conditions is a good thing, they also see the bill as a giant gift to the private insurance industry who now won't have to worry about having to compete with a public health care system.

I don't blame the president for the current health care bill. He is only doing what he thinks is politically feasible. But the current bill makes it crystal clear that Obama is willing to go against his progressive base for pragmatic reasons.

So Republicans and conservative Democrats should quit worrying about the so-called far left wielding any influence over the president. Obama has bent over backwards to show he is more of a centrist than a progressive.

Andy Heintz, a K-State journalism graduate, is sports reporter for the Colby Free Press. He says he loves K-State athletics and fishing, sports and opinion writing.

Environmental controls could impact ag

Committee hearings this year could have a real economic impact on Kansas farmers. Agriculture is facing many challenges in the current economy and additional Environmental Protection Agency regulations could further reduce profitability for producers. Kansas ranks sixth in the nation in farm product exports, valued at \$5.9 billion last year. The agency has proposed several regulations that could directly impact agriculture. Confined livestock facilities and feeding operations will no doubt be affected the most.

John Mitchell, Director of the Division of Environment within the Kansas Department of Health and Environment made a presentation to the Senate Natural Resources Committee about regulations under consideration for air quality, waste management, and water quality.

Air quality divides into six criteria pollutants: particular matter, ground-level ozone, carbon monoxide, sulfur oxide, nitrogen oxide, and lead. The committee questioned controlling dust and the burning of the Flint Hills. Because of the haze from burning, there will no doubt be a Clean Air Transport Rule and Smoke Management Plan.

Waste management will still be a part of the Kansas Solid Waste and Hazardous Waste regulatory process.

Water quality includes the Clean Water Act, addressing restoration of streams and lakes, and the Safe Drinking Water Act, addressing drinking water quality. Any water use will be closely monitored regardless of use.

The full impact of the proposals is not known, but agriculture can anticipate costly controls. When the department holds public hearings in your area, it's important for producers to attend and get involved.

The Senate Agriculture Committee has been quiet this year. We approved the appointment of Josh Svaty as Secretary of Agriculture and heard annual reports from departments. The Committee held a hearing on SB 395, about fee increases to the Dairy Inspection Program, no opponents testified and no action has been taken. As cuts are being made to departments, I am sure efforts to combine services will be proposed again this session.

Specific Senate activities have been:

Senate Sub. for HB 2222- FY 2010 and FY 2011 Budget: This amends the existing budget for fiscal year 2010 and fiscal year 2011. The bill enacts Governor Parkinson's allotments which require legislative approval with the following provisions:

• Reduce funds from the State General Fund (SGF) to the Legislative Coordinating Council (LCC) by \$86,885;



Ralph Ostmeyer

• State Senator

• Add \$1.1 million in general funds to the legislative council for distribution among legislative branch agencies. Governor Parkinson originally cut \$2.75 million from the legislative budget by allocating for an 83-day session. The addition reduces the legislative cut to \$1.65 million to allocate for the possibility of the 2010 session going over 83 days;

• Reduces the franking privileges of the Legislature by 50 percent below the current authorized amount for calendar year 2010. If a member exceeds their postage allowance, no further expenditures could be made;

• Cap the franking privileges for House and Senate at \$2,500 for the 2010 calendar year;

• Reduce the Legislative Research Department's expenditures by \$426,615;

• Reduce the Revisor of Statutes operating expenditures for FY 2010 by \$649,379;

• Reduce the Legislature's operating expenditures for FY 2010 by \$1,366,648;

• Reduce the Division of Post Audit's operating expenditures for FY 2010 by \$225,457;

• Add \$5 million to the Judicial Branch for Judicial operations for FY 2010. An unintentional oversight by the legislature during the 2009 session cut \$8 million from the 2010 judiciary budget and the addition of \$5 million restores all but \$3 million for the judiciary;

• Shift from the State Highway Fund to General Fund two transfers from February and May totaling \$80 million;

• Transfer \$5 million from the Investor Education Fund with the Office of the Securities Commissioner to the general fund;

• Reduce the appropriation to the Department of Commerce Economic Development Initiative Fund (EDIF) by \$800,000;

• Reduce appropriation to the Kansas, Inc. fund by \$10,000;

• Reduce Kansas Technology Enterprise Corporation fund by \$390,000;

• Transfer \$5.8 million from the Economic Development Initiative Fund to the State General Fund;

• Shift \$2 million from the State Housing Trust Fund to the general fund; and

• Direct the Kansas Health Policy Authority to review short, mid and long term contracts and other potential cost savings methods and

to report back to the Senate Public Health and Welfare Committee and the appropriate Senate Ways and Means Subcommittees by March 1.

The Senate bill passed 36 to 4 on Jan. 27.

SB 360- Small Claims: SB 360 removes the cap on the number of small claims actions filed during a calendar year. The bill also removes the provision that enforces the limit. A precise fiscal note for SB 360 cannot be determined but the Office of Judicial Administration believes most cases would be accommodated within the existing court schedule and not require additional resources.

SB 360 passed 40 to 0 on Jan. 27.

Unemployment Trust Fund: In February, for the first time in Kansas history, the State will begin receiving advances from the U.S. Department of Labor to ensure unemployment claims are paid. The Unemployment Insurance Trust Fund began 2009 with a balance of over \$500 million and finished the year with an approximate balance of \$90 million. Continued unemployment claims in 2009 totaled 2.36 million compared to 1.1 million in 2008.

Due to the rapid depletion of the trust fund, employers will have to pay more into the fund. In September, employers were notified the reduced tax rate in the previous three years would not be in effect for 2010 and revised tax rate calculations were sent to employers in December. For 2010, total employer contributions to the trust fund is \$406.9 million, an increase of 105 percent from the 2009 requirement of \$198.4 million. The minimum taxable rate on the first \$8,000 in wages in 2010 is 0.16 percent while the maximum rate is 7.4 percent.

Currently, 30 of 53 unemployment trust funds are borrowing from the federal government totaling \$29.7 billion in advances. They will be issued to the state on a daily basis for the amount needed to satisfy payments for the day. The American Recovery and Reinvestment Act included a provision that allowed the advances without interest for 2010 so the state will not have to pay interest until Sept. 30, 2011. However, if the state has not repaid the loan on the advance by January 2013, a 0.3 percent reduction in the discount rate the federal government allows will be put in place. For calendar year 2013, the Federal Unemployment Tax rate for Kansas will go from 0.8 percent to 1.1 percent and will increase, each year, by 0.3 percent until the loan is repaid.

Budget Update: Next week, Ways and Means Subcommittees are scheduled to begin meeting to work on their respective portions of the FY 2011 budget.

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