

# Journal of the Senate

SIXTY-SECOND DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Monday, April 30, 2007—11:00 a.m.

The Senate was called to order by President Stephen Morris.  
The roll was called with thirty-eight senators present.  
Senators Bruce and Taddiken were excused.  
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,  
Is this the last day  
Of the wrap-up session?  
Is this when I pray  
My final impression?  
In years gone by  
I've made a survey  
Of those who might know  
When would be the last day.  
So the night before  
The predicted last day  
I would prepare  
The prayer I would pray.  
On the predicted last day  
I prayed my "last prayer".  
But they worked day and night  
And got nowhere.  
I was then in a position  
For which I did not prepare,  
My last day prayer  
Was not my last prayer.  
So, Lord:  
If this is the last day,  
I'll say my "good-bye",  
And hope to see them  
Come sine die.  
But if this is not the last day,  
Tomorrow I'll pray  
The prayer I'd prepared  
For the last day.

P.S. Lord:  
 If it turns out tomorrow  
 Is not the last day,  
 I'll need You to tell me  
 Just what I should say!  
 I pray in Jesus' Name  
 AMEN

#### MESSAGE FROM THE HOUSE

Announcing passage of **HB 2599**.

Also, passage of **SB 21, as amended by House Substitute for SB 21, SB 357, as amended by House Substitute for SB 357**.

The House adopts the conference committee report on **HB 2005**.

The House adopts the conference committee report on **HB 2113**.

The House adopts the conference committee report on **HB 2128**.

The House adopts the conference committee report on **Substitute HB 2310**.

The House adopts the conference committee report on **HB 2360**.

The House adopts the Conference Committee report to agree to disagree on **HB 2019** and has appointed Representatives Burgess, Powers and Sawyer as second conferees on the part of the House.

The House adopts the Conference Committee report to agree to disagree on **House Substitute for SB 14** and has appointed Representatives O'Neal, Kinzer and Pauls as third conferees on the part of the House.

The House concurs in Senate amendments to **Senate Substitute for Substitute for HB 2451**.

#### INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

**HB 2599** was thereupon introduced and read by title.

#### CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Umbarger the Senate nonconcurred in the House amendments to **H Sub for SB 21** and requested a conference committee be appointed.

The President appointed Senators Umbarger, Emler and Kelly as a conference committee on the part of the Senate.

On motion of Senator Umbarger the Senate nonconcurred in the House amendments to **H Sub for SB 357** and requested a conference committee be appointed.

The President appointed Senators Umbarger, Emler and Kelly as a conference committee on the part of the Senate.

#### INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Hensley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1885—

A RESOLUTION declaring April 28, 2007, as Workers' Memorial Day in Kansas.

WHEREAS, The Kansas AFL-CIO and its affiliated unions are joining in a nationwide effort to commemorate workers injured, disabled or killed on the job and focus attention on what needs to be done to prevent such senseless deaths and injuries; and

WHEREAS, Each April 28, since 1989, Workers' Memorial Day has been observed in nearly one hundred countries and officially endorsed by the International Confederation of Free Trade Unions; and

WHEREAS, April 28th falls on the anniversary of the enactment of federal legislation creating the Occupational Safety and Health Administration (OSHA), which was signed into law by President Richard Nixon on April 28, 1971; and

WHEREAS, Since its inception, OSHA has assisted employers and employees to create better working conditions, and has helped to cut workplace fatalities by more than 60% and occupational injury and illness by 40%; and

WHEREAS, Despite OSHA's best efforts, each year more than 60,000 workers nationwide die from job-related injuries and illnesses and another 6 million are injured. A hundred thousand more die a slow death from cancer, lung disease or other disabling conditions caused by exposure to toxins at work; and

WHEREAS, Last year, 50 of our fellow Kansans lost their lives in the workplace; and

WHEREAS, Today, April 28, 2007, Kansas workers will remember those who have suffered and died in the workplace. They will also join their brothers and sisters all across this country in a renewed commitment to prevent those tragedies from happening again: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we remember the American workers who have been injured, disabled or killed on the job by declaring April 28, 2007, as Workers' Memorial Day in Kansas; and

*Be it further resolved:* That the Secretary of the Senate provide five enrolled copies of this resolution to the Kansas AFL-CIO, 2131 S.W. 31st Street, Topeka, KS 66611.

On emergency motion of Senator Hensley **SR 1885** was adopted unanimously.

#### REPORT ON ENROLLED BILLS

**H Sub for SB 11, H Sub for SB 31; SB 52, SB 324** reported correctly enrolled, properly signed and presented to the Governor on April 30, 2007.

**SR 1875, SR 1876, SR 1877, SR 1878, SR 1879, SR 1880, SR 1881, SR 1882, SR 1883, SR 1884** reported correctly enrolled, properly signed and presented to the Secretary of the Senate April 30, 2007.

**SCR 1612** reported correctly enrolled, properly signed and presented to the Secretary of State April 30, 2007.

On motion of Senator D. Schmidt, the Senate recessed until 2:00 p.m.

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#### AFTERNOON SESSION

The Senate met pursuant to recess with President Morris in the chair.

#### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

**SB 395**, An act establishing the Kansas rural policy authority, by Committee on Ways and Means.

#### MESSAGE FROM THE HOUSE

Announcing the House accedes to the request of the Senate for a conference on **House Substitute for SB 21** and has appointed Representatives Schwartz, Tafanelli and Feuerborn as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 357** and has appointed Representatives Schwartz, Tafanelli and Feuerborn as conferees on the part of the House.

#### ORIGINAL MOTION

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee report on **Sub for S Sub for HB 2237**.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **Substitute for SENATE Substitute for HB 2237**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee of the Whole amendments, as follows:

On page 1, by striking all following line 20;

By striking all on pages 2 through 17;

On page 18, by striking all in lines 1 through 36; following line 36, by inserting:

“New Section 1. Sections 1 through 7, and amendments thereto, shall be known and may be cited as the state educational institution long-term infrastructure maintenance program.

New Sec. 2. As used in the state educational institution long-term infrastructure maintenance program:

(a) “Infrastructure maintenance fund” or “fund” means the fund established by section 4, and amendments thereto.

(b) “State educational institution” or “institution” means a state educational institution as defined by K.S.A. 76-711, and amendments thereto.

(c) “State board” means the state board of regents.

(d) (1) “Project” or “infrastructure improvement project” means the maintenance, repair, reconstruction or rehabilitation of a building located at a state educational institution, any utility system and other infrastructure relating to such building, any life-safety upgrades to such building and any improvements necessary to be made to such building in order to comply with the requirements of the Americans with disabilities act or other federal or state law.

(2) “Infrastructure improvement project” shall not mean:

(A) The new construction of buildings;

(B) the maintenance, repair, reconstruction or rehabilitation of any building used as an athletic facility that does not directly support the delivery of academic pursuits; or

(C) the maintenance, repair, reconstruction or rehabilitation of the residence of the president or chancellor of a state educational institution.

(e) “Cost” means all costs or expenses which are necessary or incidental to a project and which are directly attributable thereto.

(f) “Program” means the state educational institution long-term infrastructure maintenance program.

(g) “Joint committee” means the joint committee on state building construction.

New Sec. 3. (a) There is hereby established the state educational institution long-term infrastructure maintenance program. Subject to the limitations provided by this act, the program shall be administered by the state board. The state board shall establish standards and criteria for prioritizing, reviewing, evaluating and approving projects and the allocation of moneys available under the program. When allocating moneys to finance the costs of projects under the program, the state board shall take into consideration the square footage, age and complexity of the buildings and infrastructure at each state educational institution.

(b) At least once each calendar quarter, the state board shall prepare a report on projects financed under the program. The report shall include information showing the progress which has been made during the reporting period to reduce the building and infrastructure maintenance backlog that existed on the effective date of this act. The report shall include information showing the effect that the expenditures have had on the campuses of each state educational institution. The report shall include any other information deemed necessary by the state board. A copy of such report shall be submitted to the governor and the joint committee on state building construction.

(c) (1) On or before January 14, 2009, and each two years thereafter, the state board shall prepare an inventory of buildings and space utilization. Such inventory shall state the age of each building located at each state educational institution, the use of the space in the building and the cost of replacing the building.

(2) On or before January 14, 2009, and each two years thereafter, the state board shall prepare a report concerning deferred and annual maintenance of buildings and infrastructure at each state educational institution. The report shall include a comprehensive building and infrastructure audit that provides an overview of the maintenance needs of all state-owned buildings and infrastructure at each state educational institution. The report shall describe the maintenance needs of each building and infrastructure and the estimated cost of such needs. The report shall include any other information deemed necessary by the state board.

(3) On or before January 14, 2009, and each two years thereafter, the state board shall submit a copy of the inventory and report required by this subsection to the governor, the joint committee, the senate committee on ways and means and the house of representatives committee on appropriations.

(d) All reports required by this section shall be prepared and submitted in an electronic format.

New Sec. 4. (a) There is hereby established in the state treasury the infrastructure maintenance fund which shall be administered and maintained for the use and benefit of the state educational institutions as provided by the state educational institution long-term infrastructure maintenance program. The fund shall be administered by the state board. Subject to the provisions of appropriation acts, all expenditures from the fund shall be made for purposes of financing the costs of projects.

(b) Subject to the provisions of appropriation acts, the state board may transfer moneys from the infrastructure maintenance fund to an account or accounts of the infrastructure maintenance fund of an institution for expenditure by the institution to pay the costs of a project as approved by the state board.

New Sec. 5. (a) Subject to the provisions of subsection (c), the state board shall advise and consult with the joint committee regarding each project. The state board shall not approve a project to be financed by moneys from the infrastructure maintenance fund unless the state board first has advised and consulted with the joint committee. A state educational institution shall advise and consult with the joint committee before expenditure of any moneys from the infrastructure maintenance fund, or from any account or accounts of the infrastructure maintenance fund of such institution, for each project. No moneys received by a state educational institution as a contribution which qualifies as an income tax credit pursuant to law to finance the cost of a project may be expended unless the institution first has advised and consulted with the joint committee.

(b) Except as specifically provided by this act, the project financed under the program shall not be subject to any further process or procedure that requires the submission, review or approval of any infrastructure improvement. The state board shall ensure that projects financed under the program comply with nationally recognized codes and life-safety inspections under K.S.A. 31-132 et seq., and amendments thereto. Such inspections, plan reviews and other related work shall be conducted by the division of facilities management, or a designee of the division, prior to certification for building occupancy. The state board shall not be subject to the oversight of the state fire marshal.

(c) The joint committee shall develop recommendations for a plan for the management and oversight of projects financed under the program. Such recommendations shall be submitted to the president of the senate and the speaker of the house of representatives on or before January 14, 2008.

New Sec. 6. (a) On July 1, 2007, or as soon thereafter as sufficient moneys are available, \$30,000,000 shall be transferred by the director of accounts and reports from the statewide maintenance and disaster relief fund to the infrastructure maintenance fund established by section 4, and amendments thereto.

(b) On January 1, 2008, or as soon thereafter as sufficient moneys are available, \$13,000,000 shall be transferred by the director of accounts and reports from the statewide maintenance and disaster relief fund to the infrastructure maintenance fund established by section 4, and amendments thereto.

New Sec. 7. (a) (1) On July 1, 2008, or as soon thereafter as sufficient moneys are available, \$7,000,000 shall be transferred by the director of accounts and reports from the state general fund to the infrastructure maintenance fund established by section 4, and amendments thereto.

(2) On July 1, 2009, or as soon thereafter as sufficient moneys are available, \$15,000,000 shall be transferred by the director of accounts and reports from the state general fund to the infrastructure maintenance fund established by section 4, and amendments thereto.

(3) On July 1, 2010, or as soon thereafter as sufficient moneys are available, \$15,000,000 shall be transferred by the director of accounts and reports from the state general fund to the infrastructure maintenance fund established by section 4, and amendments thereto.

(4) On July 1, 2011, or as soon thereafter as sufficient moneys are available, \$10,000,000 shall be transferred by the director of accounts and reports from the state general fund to the infrastructure maintenance fund established by section 4, and amendments thereto.

(b) All transfers made in accordance with the provisions of this section shall be considered to be demand transfers from the state general fund.

(c) All moneys credited to the infrastructure maintenance fund shall be expended or transferred only for the purpose of paying the cost of projects approved by the state board pursuant to the state educational institution long-term infrastructure maintenance program.

New Sec. 8. Sections 8 through 12, and amendments thereto, shall be known and may be cited as the postsecondary educational institution infrastructure finance program.

New Sec. 9. As used in the infrastructure finance program:

(a) "State board" means the state board of regents.

(b) "Postsecondary educational institution" or "institution" means Washburn university and any community college or technical college.

(c) "Community college" means a community college established under the provisions of the community college act.

(d) "Technical college" means a technical college as designated pursuant to K.S.A. 72-4472, 72-4473, 72-4474, 72-4475 and 72-4476, and amendments thereto.

(e) (1) "Project" or "infrastructure improvement project" means the maintenance, repair, reconstruction, remodeling or rehabilitation of a building located at a postsecondary educational institution, any additions to a building, any utility system and other infrastructure relating to such building, any life-safety upgrades to such building, any improvements necessary to be made to such building in order to comply with the requirements of the Americans with disabilities act or other federal or state law.

(2) "Infrastructure improvement project" shall not mean:

(A) The new construction of buildings;

(B) the maintenance, repair, reconstruction or rehabilitation of any building used as an athletic facility that does not directly support the delivery of academic pursuits; or

(C) the maintenance, repair, reconstruction or rehabilitation of the residence of the president or chief executive officer of a postsecondary educational institution.

(f) "Cost" means all costs or expenses which are necessary or incidental to an infrastructure improvement project and which are directly attributable thereto.

(g) "Program" means the postsecondary educational institution infrastructure finance program.

(h) "Joint committee" means the joint committee on state building construction.

New Sec. 10. (a) There is hereby established the postsecondary educational institution infrastructure finance program. Subject to the limitations provided by this act, the program shall be administered by the state board. Applications for financing under the program shall be submitted in the manner provided by the state board. When approving applications for financing under the program, the state board shall take into consideration the need for the project and the financial ability of the institution to meet its obligation if the application is approved.

(b) On or before January 14 of each year, the state board shall prepare a report on projects financed under the program during the preceding fiscal year. The report shall disclose the aggregate amount of bonds issued, the amount of bonds issued at the request of each postsecondary educational institution and an overview of the projects financed by such bonds. The report shall include any other information deemed necessary by the state board. A copy of such report shall be submitted to the governor and the joint committee on state building construction.

(c) All reports required by this section shall be prepared and submitted in an electronic format.

New Sec. 11. Neither the state nor the state board shall have the power to pledge the full faith and credit or taxing power of the state of Kansas for such purposes and any payment by the state board for such purposes shall be subject to and dependent on appropriations by the legislature. Any obligation of the state board for payment of debt service on bonds and any such bonds issued for the purposes set forth in section 12, and amendments thereto,

shall not be considered a debt or obligation of the state for the purpose of section 6 of article 11 of the constitution of the state of Kansas.

New Sec. 12. (a) (1) Subject to the provisions of this section, the Kansas development finance authority is hereby authorized to issue bonds to finance the cost of projects. Projects which are approved by the state board under the program are hereby approved for the state board for the purposes of subsection (b) of K.S.A. 74-8905, and amendments thereto. The aggregate principal amount of bonds issued pursuant to this section in a single fiscal year shall not exceed \$100,000,000, plus all amounts required for costs of bond issuance, costs of interest on the bonds issued for projects during the time such improvements are being made and any required reserves for the payment of principal and interest on the bonds. The aggregate principal amount of bonds issued pursuant to this section in a single fiscal year shall not exceed \$20,000,000, plus all amounts required for costs of bond issuance, costs of interest on the bonds issued for projects during the time such improvements are being made and any required reserves for the payment of principal and interest on the bonds. All moneys received from the issuance of any such bonds shall be deposited and accounted for as prescribed by applicable bond covenants. The debt service for any such bonds issued for such project shall be paid by appropriations of moneys from the state general fund as may be necessary to pay debt service on the bonds. Subject to the provisions of appropriations acts, and as directed by the Kansas development finance authority, payment of principal and interest on the bonds shall be made by the state board from annual appropriations by the legislature or from any other moneys as may be made available by law or from the postsecondary educational institution in amounts sufficient to pay the principal and interest on the bonds until the bonds are finally paid. The state board is authorized to enter into loan agreements with a postsecondary educational institution to provide for payment of principal on the bonds. All moneys received pursuant to such agreements shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75- 4215, and amendments thereto, and shall be credited to the state general fund.

(2) No bonds shall be issued pursuant to this section after June 30, 2012.

(b) The aggregate principal amount of bonds issued pursuant to this section to finance the cost of projects at a single postsecondary educational institution shall not exceed \$15,000,000, plus all amounts required for costs of bond issuance, costs of interest on the bonds issued for projects during the time such improvements are being made and any required reserves for the payment of principal and interest on the bonds.

(c) The date of maturity on bonds issued pursuant to this section shall not be fixed for a period of time which exceeds eight years from the date of issuance.

(d) Subject to the provisions of appropriation acts, the secretary of administration may enter into pledge agreements with the state board and the Kansas development finance authority to pledge moneys for the payment of bonds issued pursuant to the approval in subsection (a).

(e) Any postsecondary educational institutions may apply for a loan under the program. Applications shall be submitted in the manner and form required by the state board. The state board may enter into agreements with the postsecondary educational institutions for the provision of a loan and for the payment of all or a part of eligible project costs. The purposes for which the loan is to be provided, the amount thereof and the repayment terms and conditions shall be included in the agreement entered into pursuant to subsection (d).

(f) The first payment of any principal and interest on bonds issued pursuant to this section during fiscal year 2008, shall not be made prior to July 1, 2008.

New Sec. 13. When preparing the inventory required by section 3, and amendments thereto, the state board shall evaluate all buildings to determine if any building is obsolete. If a building is determined to be obsolete, the state board shall retire the building from service. In addition, if the state board determines that it would be prudent to do so, the building may be razed.

New Sec. 14. (a) As used in this section:

(1) "State educational institution" has the meaning ascribed thereto by K.S.A. 76-711, and amendments thereto.

(2) "Private moneys" means moneys from nongovernmental sources.

(3) "Improvement" means new construction of a building or other capital improvement of which at least 51% of the cost is financed with private moneys.

(4) "State board" means the state board of regents.

(b) Each state educational institution shall provide for the future annual maintenance and operation costs for an improvement. From and after July 1, 2007, the state board shall not request any moneys from the state general fund to pay for the cost of maintenance and operation of improvements which exceed the amount of moneys paid from the state general fund in fiscal year 2007 for such purpose.

The provisions of this subsection shall apply to any improvement approved by the state board after January 31, 2007.

(c) Each state educational institution shall submit to the state board a plan to provide for the annual maintenance and operation costs of an improvement when seeking approval for the making of such improvement from the state board.

New Sec. 15. Except for bonds issued pursuant to the postsecondary educational institution infrastructure finance program, no moneys received by a postsecondary educational institution as a contribution which qualifies as an income tax credit pursuant to law may be expended to pay for bonds or the interest on such bonds.

New Sec. 16. (a) On and after July 1, 2008, any taxpayer who contributes in the manner prescribed by this section to a community college located in Kansas for capital improvements, to a technical college for deferred maintenance or the purchase of technology or equipment or to a postsecondary educational institution located in Kansas for deferred maintenance, shall be allowed a credit against the tax imposed by the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated. The tax credit allowed by this section is applicable for the tax year 2008 for any contributions made on and after July 1, 2008, and for the tax years 2009, 2010, 2011 and 2012 for any contributions made during the entire tax year. The amount of the credit allowed by this section shall not exceed 60% of the total amount contributed during the taxable year by the taxpayer to a community college or a technical college located in Kansas for such purposes. The amount of the credit allowed by this section shall not exceed 50% of the total amount contributed during the taxable year by the taxpayer to a postsecondary educational institution for such purposes. If the amount of the credit allowed by this section for a taxpayer who contributes to a community college or a technical college exceeds the taxpayer's income tax liability imposed by the Kansas income tax act, such excess amount shall be refunded to the taxpayer. If the amount of the tax credit for a taxpayer who contributes to a postsecondary educational institution exceeds the taxpayer's income tax liability for the taxable year, the amount which exceeds the tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the third taxable year succeeding the taxable year in which the contribution is made. Prior to the issuance of any tax credits pursuant to this section, the structure of the process in which contributions received by a community college, a technical college or a postsecondary educational institution qualify as tax credits allowed and issued pursuant to this section shall be developed by a community college, a technical college and a postsecondary educational institution in consultation with the secretary of revenue and the foundation or endowment association of any such community college, technical college or postsecondary educational institution in a manner that complies with requirements specified in the federal internal revenue code of 1986, as amended, so that contributions qualify as charitable contributions allowable as deductions from federal adjusted gross income.

(b) (1) Upon receipt of any such contributions to a community college made pursuant to the provisions of this section, the treasurer of the community college shall deposit such contributions to the credit of the capital outlay fund of such community college established as provided by K.S.A. 71-501a, and amendments thereto. Expenditures from such fund shall be made for the purposes described in subsection (a) of K.S.A. 71-501, and amendments



thereto, except that expenditures shall not be made from such fund for new construction or the acquisition of real property for use as building sites or for educational programs.

(2) Upon receipt of any such contributions to a technical college made pursuant to the provisions of this section, such contributions shall be deposited to the credit of a deferred maintenance fund or a technology and equipment fund established by the technical college which received the contribution. Expenditures from such fund shall be made only for the purpose as provided in this subsection.

(3) Upon receipt of any such contributions to a postsecondary educational institution made pursuant to the provisions of this section, such contributions shall be deposited to the credit of the appropriate deferred maintenance support fund of the postsecondary educational institution which received the contribution. Expenditures from such fund shall be made only for the purposes designated for such fund pursuant to law.

(c) (1) In no event shall the total amount of credits allowed under this section for taxpayers who contribute to any one such community college or technical college exceed the following amounts: For the tax year 2008, an amount not to exceed \$78,125; for the tax year 2009, an amount not to exceed \$156,250; and for the tax years 2010, 2011 and 2012, an amount not to exceed \$208,233.33.

(2) In no event shall the total of credits allowed under this section for taxpayers who contribute to postsecondary educational institutions exceed the following amounts: For the tax year 2008, an amount not to exceed \$5,625,000; for the tax year 2009, an amount not to exceed \$11,250,000; and for the tax years 2010, 2011 and 2012, an amount not to exceed \$15,000,000. Except as otherwise provided, the allocation of such tax credits for each individual state educational institution shall be determined by the state board of regents in consultation with the secretary of revenue and the university foundation or endowment association of each postsecondary educational institution, and such determination shall be completed prior to the issuance of any tax credits pursuant to this section. Not more than 40% of the total of credits allowed under this section shall be allocated to any one postsecondary educational institution unless all such postsecondary educational institutions approve an allocation to any one such postsecondary educational institution which exceeds 40% of the total of such credits allowed under this section.

(d) As used in this section: (1) "Community college" means a community college established under the provisions of the community college act;

(2) "deferred maintenance" means the maintenance, repair, reconstruction or rehabilitation of a building located at a technical college or a postsecondary educational institution which has been deferred, any utility systems relating to such building, any life-safety upgrades to such building and any improvements necessary to be made to such building in order to comply with the requirements of the Americans with disabilities act or other federal or state law;

(3) "postsecondary educational institution" means the university of Kansas, Kansas state university of agriculture and applied science, Wichita state university, Emporia state university, Pittsburg state university, Fort Hays state university and Washburn university of Topeka; and

(4) "technical college" means a technical college as designated pursuant to K.S.A. 72-4472, 72-4473, 72-4474, 72-4475 and 72-4477, and amendments thereto.

(e) Any taxpayer not subject to Kansas income, privilege or premiums tax who contributes to a community college, technical college or postsecondary educational institution, hereinafter designated the transferor, may sell, assign, convey or otherwise transfer tax credits allowed and earned pursuant to this section. The sale price of a tax credit shall be at least 50% of the full value of the credit. Such credit shall be deemed to be allowed and earned by any such taxpayer which is only disqualified therefrom by reason of not being subject to such Kansas taxes. The taxpayer acquiring earned credits, hereinafter designated the transferee, may use the amount of the acquired credits to offset up to 100% of the taxpayer's income, privilege or premiums tax liability for the taxable year in which such acquisition was made. Such credits may be sold or transferred only one time and, if sold or transferred, shall be transferred in the tax year such credit is earned or the two successive tax years. A transferred credit shall be claimed in the year purchased. The transferor shall enter into a written agreement with the transferee establishing the terms and conditions of

the sale or transfer and shall perfect such transfer by notifying the secretary of revenue in writing within 30 calendar days following the effective date of the transfer, subject to the review and approval or denial of such transfer by the secretary of revenue. The transferor and transferee shall provide any information pertaining to the sale or transfer as may be required by the secretary of revenue to administer and carry out the provisions of this section. The amount received by the transferor of such tax credit shall be taxable as income of the transferor, and the excess of the value of such credit over the amount paid by the transferee for such credit shall be taxable as income of the transferee.

(f) The secretary of revenue shall submit an annual report to the legislature to assist the legislature in the evaluation of the utilization of any credits claimed pursuant to this act, including information specific as to each community college, technical college or postsecondary educational institution. Such report shall be due on or before the first day of the legislative session following the tax year in which the credits were claimed.

(g) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this section.

Sec. 17. K.S.A. 76-719, as amended by section 11 of chapter 132 of the 2006 Session Laws of Kansas, is hereby amended to read as follows: 76-719. (a) Subject to K.S.A. 76-742 and amendments thereto, the board of regents shall fix tuition, fees and charges to be collected by each state educational institution. If a state educational institution collects a student-activity fee, the funds so collected shall be set apart and used for the purpose of supporting appropriate student activities.

(b) All moneys received by a state educational institution for tuition fixed by the state board of regents shall be deposited in the state treasury and credited to the general fees fund of the state educational institution. All moneys received for any student-activity fee or for any other fees or charges fixed by the state board of regents shall be deposited in the state treasury and credited to the appropriate account of the restricted fees fund of the state educational institution or to another appropriate special revenue fund of the state educational institution.

(c) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the ~~general fees~~ *deferred maintenance support* fund of each state educational institution interest earnings based on:

(1) The average daily balance of moneys in the general fees fund of the state educational institution for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the ~~restricted fees~~ *deferred maintenance support* fund of each state educational institution interest earnings based on:

(1) The average daily balance of moneys in the restricted fees fund of the state educational institution for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(e) *All moneys transferred to the deferred maintenance support fund pursuant to this section shall be expended solely to finance infrastructure improvement projects as defined by section 2, and amendments thereto.*

Sec. 18. K.S.A. 76-753 is hereby amended to read as follows: 76-753. (a) There is hereby established in the state treasury a sponsored research overhead fund for each state educational institution.

(b) All moneys received by a state educational institution as overhead costs on sponsored research projects shall be deposited to the credit of the sponsored research overhead fund.

(c) *On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the deferred maintenance support fund of each state educational institution interest earnings based on:*

(1) *The average daily balance of moneys in the sponsored research overhead fund of the state educational institution for the preceding month; and*

(2) *the net earnings rate of the pooled money investment portfolio for the preceding month.*

(d) In accordance with the provisions of appropriations acts, expenditures may be made from the sponsored research overhead fund of a state educational institution for administration, operation and development of research and for matching federal funds available for capital improvements and equipment that qualify for research purposes.

(e) All moneys transferred to the deferred maintenance support fund pursuant to this section shall be expended solely to finance infrastructure improvement projects as defined by section 2, and amendments thereto.

(f) As used in this section, "sponsored research overhead fund" includes the research and institutional overhead fund of Emporia state university.

Sec. 19. K.S.A. 76-719, as amended by section 11 of chapter 132 of the 2006 Session Laws of Kansas, and 76-753 are hereby repealed.

Sec. 20.

#### STATE BOARD OF REGENTS

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Infrastructure maintenance fund

For the fiscal year ending June 30, 2008.....	\$30,000,000
For the fiscal year ending June 30, 2009.....	\$20,000,000
For the fiscal year ending June 30, 2010.....	\$15,000,000
For the fiscal year ending June 30, 2011.....	\$15,000,000
For the fiscal year ending June 30, 2012.....	\$10,000,000

*Provided*, That, during the fiscal years ending June 30, 2008, June 30, 2009, June 30, 2010, June 30, 2011, and June 30, 2012, the state board of regents is hereby authorized to transfer moneys from the infrastructure maintenance fund to an account or accounts of the infrastructure maintenance fund of any state educational institution to be expended by the state educational institution for infrastructure improvement projects, as defined by section 2, and amendments thereto, approved by the state board of regents after first having advised and consulted with the joint committee on state building construction regarding approval of such projects: *Provided, however*, That no expenditures shall be made from any such account until the program statement and other detailed information about the proposed project has been reviewed by the joint committee on state building construction: *Provided further*, That the state board of regents shall certify to the director of accounts and reports each such transfer of moneys to any such separate account of the infrastructure maintenance fund for a state educational institution: *And provided further*, That the state board of regents shall transmit a copy of each such certification to the director of the budget and to the director of legislative research.”;

By renumbering the remaining section;

In the title, in line 17, by striking “and K.S.A. 2006 Supp. 75-4209.”;

And your committee on conference recommends the adoption of this report.

DWAYNE UMBARGER

JAY SCOTT EMLER

LAURA KELLY

*Conferees on part of Senate*

SHARON SCHWARTZ

LEE TAFANELLI

BILL FEUERBORN

*Conferees on part of House*

Senator Umbarger moved the Senate adopt the Conference Committee Report on **Sub for S Sub for HB 2237**.

On roll call, the vote was: Yeas 30, Nays 8, Present and Passing 0, Absent or Not Voting 2.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, McGinn,

Morris, Ostmeyer, Petersen, Pine, Schmidt D, Schmidt V, Steineger, Teichman, Umbarger, Wagle, Wilson.

Nays: Huelskamp, Lynn, Palmer, Pyle, Reitz, Schodorf, Vratil, Wysong.

Absent or Not Voting: Bruce, Taddiken.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote in support of **Sub for S Sub for HB 2237** to avoid any further delay by the state of Kansas in addressing the issue of deferred maintenance. A dollar of maintenance not addressed today will soon cost five dollars and then ten. Last week, I voted in support of a more comprehensive plan. Since that legislation has not advanced through the House-Senate negotiation process, I support **Sub for S Sub for HB 2237** as a down payment and step forward. We should continue ongoing discussion and oversight of maintenance expenditures with the eventual goal of payment with current dollars.—JIM BARNETT

MR. PRESIDENT: I vote “yes” on **Sub for S Sub for HB 2237**. The Legislature has been “high-centered” on the issue of deferred maintenance for a number of years. This bill nudges us off the hump and gets our wheels on the ground so we can move forward. Movement toward the goal should be considered a victory even if its not as much as some would like. This is a good faith effort which moves us down the road without over committing our resources.—KARIN BROWNLEE

Senators Donovan and Wilson request the record to show they concur with the “Explanation of Vote” offered by Senator Brownlee on **Sub for S Sub for HB 2237**.

MR. PRESIDENT: I understand the specific needs for maintenance at our state institutions. However, from day one I have been concerned that we are merely giving taxpayer money away without honestly looking at the history of the problem and how we got here. The plan we are voting on today is certainly more reasonable and responsible than the one we passed Friday. However, legislators have a responsibility to take a deeper look at the circumstances regarding these requests rather than merely responding to the numbers that have been changing from day to day. We are also concerned about our future bonded indebtedness and who is going to pay for this down the road. There is a concern about the entire process. As such, I vote NO.—JULIA LYNN

Senators Huelskamp, Palmer and Pyle request the record to show they concur with the “Explanation of Vote” offered by Senator Lynn on **Sub for S Sub for HB 2237**.

I vote “yes” on the conference committee report on **Sub for S Sub for HB 2237**. **Sub for S Sub for HB 2237** represents a first step in addressing the challenging and ongoing deferred maintenance needs of our higher education system.

The Kansas Board of Regents identified over \$663 million in deferred maintenance needs among our state universities. **Sub for S Sub for HB 2237** commits, over 5 years, \$90 million in new state general fund appropriations and makes available \$82.5 million in tax credits.

Clearly, this is just an initial down payment and not an ultimate solution to the deferred maintenance problem. In the coming years we must remain committed to protecting our state university infrastructure—an invaluable asset of the citizens of Kansas.—STEPHEN R. MORRIS

Senators Allen, Apple, Barone, Betts, Francisco, Gilstrap, Haley, Kelly, Pine Teichman and Umbarger request the record to show they concur with the “Explanation of Vote” offered by Senator Morris on **Sub for S Sub for HB 2237**.

MR. PRESIDENT: **Sub for S Sub for HB 2237** is a false promise to our constituents that we are solving the deferred maintenance problem existing at our institutions of higher education. Those institutions have informed the Legislature that they have \$660,000,000 in deferred maintenance needs. In addition, they anticipate \$84,000,000 in new annual maintenance needs over the next 5 years. That is a total of \$1,080,000,000 in maintenance needs over the next 5 years. This bill provides only \$435,000,000 of funding for maintenance of higher education facilities over that same period of time. It barely dents the deferred

maintenance backlog. Some will say this bill is a step in the right direction. Others will describe it as a solution to the problem. It is neither. It merely maintains the status quo on deferred maintenance. We owe more than that to our children and our constituents. The legislature has a fiduciary duty to maintain college and university facilities in the same manner as we maintain our homes and businesses. We must keep them safe, secure, and in good repair. This bill fails to uphold that fiduciary duty. Perhaps it will take a tragic accident to convince my fellow Senators of their duty. I hope not. In any event, we now make the same mistake made by our legislative colleagues in 1996 when they claimed to have solved the “crumbling classrooms” problem. It is truly a shame that we do not learn from our mistakes. I vote no on **Sub for S Sub for HB 2237**.—JOHN VRATIL

MR. PRESIDENT: The deferred maintenance plan we passed just days ago with a 36-4 vote was for some \$630 million.

It is amazing that just three days later we are agreeing to what is now \$340 million.....less than half. And that also assumes that all the tax credits, a great deal more than what the senate plan had, are sold. And also that all the bonding is issued.

I am not in agreement with the added debt through the bonding, nor the lack of individual or corporate transferability of the tax credits.

**Sub for S Sub for HB 2237** won't even pay for the annual on going maintenance, and doesn't truly address the deferred maintenance which is what our goal was.

Mr. President, this a placebo. I vote no on **Sub for S Sub for HB 2237** and can not tell you how disappointed I am in the passage of this compromised final version.—DAVID WYSONG

#### CHANGE OF CONFERENCE

The President announced the appointment of Senator Allen as a member of the Conference Committee on **H Sub for SB 14** to replace Senator Bruce.

#### ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **HB 2599**.

#### FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a  $\frac{2}{3}$  constitutional majority, and **HB 2599** was advanced to Final Action, subject to amendment, debate and roll call.

**HB 2599**, An act reconciling amendments to certain statutes; amending section 13 of 2007 Substitute for Senate Bill No. 354 and K.S.A. 8-234a, as amended by section 3 of 2007 Senate Bill No. 9, and 84-4-104, as amended by section 42 of 2007 Senate Bill No. 183, and K.S.A. 2006 Supp. 8-243, as amended by section 5 of 2007 Senate Bill No. 9, 8-247, as amended by section 3 of 2007 Substitute for House Bill No. 2042, 8-1325, as amended by section 11 of 2007 Senate Bill No. 9, 8-2117, 12-187, as amended by section 6 of 2007 Senate Bill No. 115, 12-189, as amended by section 7 of 2007 Senate Bill No. 115, 12-192, as amended by section 8 of 2007 Senate Bill No. 115, 12-1773, 16-1616, as amended by section 27 of 2007 Senate Bill No. 183, 19-101d, as amended by section 4 of 2007 House Bill No. 2058, 20-302b, 21-3413, 21-3612, 21-4714, 22-2401a, as amended by section 1 of 2007 Senate Bill No. 13, 28-170, 28-170a, 28-172a, 28-172b, 38-140, 39-709, 39-754, 39-756, 39-756a, 39-7,121d, 39-1305, 41-727, 44-703, as amended by section 1 of 2007 Senate Bill No. 83, 45-229, 59-104, 60-460, 60-2001, 61-2704, 61-4001, 65-1626, 72-6434, 72-8814, 74-2012, as amended by section 14 of 2007 Senate Bill No. 9, 74-4902, 74-5602, as amended by section 15 of 2007 Senate Bill No. 9, 74-7336, as amended by section 17 of 2007 Senate Bill No. 8, 75-2319, 75-5220, 75-7023, 75-7025, 75-7413, 75-7414, 79-32,117, as amended by section 21 of 2007 House Bill No. 2038, 79-32,120, as amended by section 22 of 2007 House Bill No. 2038, 79-32,138, as amended by section 23 of 2007 House Bill No. 2038, 79-3603, as amended by section 4 of 2007 House Bill No. 2171, 84-1-201, as amended by section 9 of 2007 Senate Bill No. 183, 84-2-103, as amended by section 33 of 2007 Senate

Bill No. 183, 84-2a-103, as amended by section 35 of Senate Bill No. 183, and 84-9-102, as amended by section 48 of 2007 Senate Bill No. 183, and repealing the existing sections; also repealing section 11 of 2007 Substitute for Senate Bill No. 354 and K.S.A. 8-234a, as amended by section 2 of 2007 Substitute for House Bill No. 2042, 38-16,130, 59-104, as amended by section 18 of chapter 210 of the 2006 Session Laws of Kansas, and 84-4-104, as amended by section 62 of 2007 Senate Bill No. 308, and K.S.A. 2005 Supp. 12-1773, as amended by section 3 of chapter 192 of the 2006 Session Laws of Kansas, and K.S.A. 2006 Supp. 8-243, as amended by section 25 of House Bill No. 2010, 8-247, as amended by section 26 of 2007 House Bill No. 2010, 8-247, as amended by section 7 of 2007 Senate Bill No. 9, 8-1325, as amended by section 27 of 2007 House Bill No. 2010, 8-2117a, 12-187, as amended by section 1 of 2007 Senate Bill No. 112, 12-189, as amended by section 2 of 2007 Senate Bill No. 112, 12-192, as amended by section 3 of 2007 Senate Bill No. 112, 16-1616, as amended by section 44 of 2007 Senate Bill No. 308, 19-101d, as amended by section 1 of 2007 House Bill No. 2161, 20-302e, 21-3413a, 21-3612a, 21-4714a, 22-2401a, as amended by section 3 of 2007 House Bill No. 2068, 28-170c, 28-170d, 28-170e, 28-172e, 28-172f, 38-140a, 39-709d, 39-754a, 39-756b, 39-756c, 39-7,121f, 39-1305a, 41-727a, 44-703, as amended by section 1 of 2007 Senate Bill No. 235, 45-229a, 59-104a, 60-460a, 60-2001a, 60-4104a, 61-2704a, 61-4001a, 65-1626c, 72-6434a, 72-8814a, 74-2012, as amended by section 1 of 2007 House Bill No. 2374, 74-4902a, 74-5602, as amended by section 2 of 2007 House Bill No. 2068, 74-7336, as amended by section 16 of 2007 Substitute for Senate Bill No. 354, 75-2319a, 75-2319b, 75-5220a, 75-7023a, 75-7025a, 75-7413a, 75-7414a, 79-32,117, as amended by section 3 of 2007 House Bill No. 2031, 79-32,120, as amended by section 9 of 2007 House Bill No. 2419, 79-32,138, as amended by section 10 of 2007 House Bill No. 2419, 79-3603, as amended by section 1 of 2007 House Bill No. 2240, 84-1-201, as amended by section 47 of 2007 Senate Bill No. 308, 84-2-103, as amended by section 48 of 2007 Senate Bill No. 308, 84-2a-103, as amended by section 59 of 2007 Senate Bill No. 308, and 84-9-102, as amended by section 65 of 2007 Senate Bill No. 308.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Bruce, Taddiken.

The bill passed.

#### REPORTS OF STANDING COMMITTEES

Committee on **Commerce** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Senate Minority Leader:

Kansas Bioscience Authority: K.S.A. 2006 Supp. 74-99b04

Ed McKechnie III, term expires March 15, 2011

#### CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointment, submitted by the Senate Minority Leader to the senate for confirmation, was considered.

Senator D. Schmidt moved the following appointment be confirmed as recommended by the Standing Senate Committee:

*By the Senate Minority Leader:*

On the appointment to the:

*Kansas Bioscience Authority, Member:*

Ed McKechnie, effective immediately.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Bruce, Taddiken.

The appointment was confirmed.

#### MESSAGE FROM THE HOUSE

Announcing the House herewith transmits the veto message from the Governor to **House Bill No. 2202**, AN ACT concerning alcoholic liquors; relating to farm wineries; amending K.S.A. 2006 Supp. 41-104, 41-308a, 41-311 and 41-2623 and repealing the existing sections, was received on April 13, 2007 and read on April 25, 2007.

My office has determined that HB 2202 contains a significant drafting error which includes different language than the language agreed upon by the conference committee. Therefore, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto House Bill 2202. I support the intent of the bill and encourage the Legislature to pass a corrected version this year so I can sign it into law.

Signed April 13, 2007

KATHLEEN SEBELIUS, *Governor*

Members were given the opportunity to override the Governor's veto. There being no motion to reconsider **House Bill No. 2202**, the Speaker of the House ruled the veto sustained.

#### MESSAGE FROM THE HOUSE

Announcing the House herewith transmits the **line item** veto message from the Governor, together with the enrolled copy of **House Bill No. 2368**, AN ACT making and concerning appropriations for the fiscal years ending June 30, 2007, June 30, 2008, June 30, 2009, June 30, 2010, June 30, 2011, and June 30, 2012, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 79-4801 and K.S.A. 2006 Supp. 2-223, 25-4501, 55-193, 72-6433, 79-2959, 79-2964, 79-3425c, 79-3425i and 82a-953a and repealing the existing sections; which was received on April 23, 2007 and read on April 25, 2007.

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return House Bill 2368 with my signature approving the bill, except for the item enumerated below.

#### University of Kansas Medical Center

Section 136(i) has been line item vetoed in its entirety.

One of the missions of state government as set out by the *Kansas Constitution* is to promote "intellectual, educational, vocational and scientific improvement" through the establishment of educational institutions, including universities. There is no question this is a critical mission for the future success of our state.

Much of that future will be shaped by advances in the area of health care and biosciences, and Kansas is blessed to have a first-class academic medical center at the University of Kansas. The KU Medical Center and KU Hospital together provide access to leading edge treatments and cures, conduct world-class life sciences research and train the next generation of health care professionals.

The KU Hospital, however, until 1998 suffered from a number of problems caused by the manner in which it was being managed from Topeka, which is why KU proposed creating a separate body to govern the hospital. The Legislature agreed and created the hospital authority, specifically charging the hospital to "facilitate and support the education, research and public service activities of the University of Kansas Medical Center."

This relationship has worked well and there is no reason it cannot continue even if the KU Medical Center should affiliate with St. Luke's Hospital. The proposed affiliation is

narrow in scope, focused solely on research and education. It is also a key part of the bid for a nationally-designated cancer center. These reasons are likely why the KU Hospital Authority has already unanimously approved the set of principles that would guide such an affiliation.

The proposed affiliation also will not harm KU's relationship with health providers elsewhere in Kansas. KU's School of Medicine is already affiliated with the two major teaching hospitals in Wichita and this valuable relationship will continue, ensuring people throughout our state will have access to skilled health professionals.

While I understand the concerns of the proponents of the restrictions contained in this proviso, there is already a more than sufficient level of oversight provided by current law. Any affiliation would have to be approved by the Board of Regents, for example, and I do not believe we should return to the past pattern of micromanagement that is proposed in this proviso.

In light of the concerns noted above and mindful of the positive, productive and hard-earned progress already achieved in the agreement on principles reached between the KU Medical Center and the KU Hospital Authority, I hereby veto this proviso.

Approved April 23, 2007

Signed KATHLEEN SEBELIUS, *Governor*

Members of the House were given the opportunity to pass the line item veto notwithstanding the Governor's veto. There was no motion to override the Governor's veto and the veto is sustained.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, May 1, 2007.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.

PAT SAVILLE, *Secretary of the Senate*.

