

Journal of the Senate

SIXTY-SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, May 27, 2004—10:00 a.m.

As provided by **SCR 1624**, the Sine Die Session of the regular 2004 Kansas Senate was called to order by President Dave Kerr.

The roll was called with thirty-six senators present.

Senators Allen, Donovan, Lyon and Pugh were excused.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

They say it's just formality;
A time to say "good-bye".
It's Latin for "without day",
They call it sine die.

It doesn't mean that all work stops;
Committees are one reason why.
They meet all during the interim,
But they call it sine die.

Most legislators have other jobs
Which cause their work to multiply,
And they go on throughout the year,
And they call it sine die.

We know that some will not return;
They have given their best "try".
We will miss them all next year,
And they call it sine die.

Some issues have not been resolved;
You can bet they did not die.
We'll see them back again next year,
But they call it sine die.

Most of them will be campaigning
No matter if it's wet or dry.
Bless them with your strength, O God,
Forever after sine die!

I pray in the Name of Jesus,

AMEN

REPORT ON ENROLLED BILLS

H Sub for SB 147; SB 235, SB 317 reported correctly enrolled, properly signed and presented to the Governor on May 10, 2004.

H Sub for SB 376 reported correctly enrolled, properly signed and presented to the Governor on May 11, 2004.

H Sub for SB 395; SB 480, SB 520 reported correctly enrolled, properly signed and presented to the Governor on May 14, 2004.

SCR 1624 reported correctly enrolled, properly signed and presented to the Secretary of the State on May 14, 2004.

CHANGE OF CONFERENCE

The President announced the appointment of Senators Umbarger, Vratil and Hensley as members of the Conference Committee on **S Sub for HB 2937** to replace Senators Morris, Adkins and Barone.

MESSAGE FROM THE GOVERNOR

H Sub for SB 12 approved on May 13, 2004.

SB 29, SB 67, SB 141; H Sub for SB 272; Sub SB 296; SB 387, SB 432, SB 511, SB 552 approved on May 17, 2004.

H Sub for SB 147; SB 235, SB 317 approved on May 20, 2004.

H Sub for SB 395, SB 480, SB 520 approved on May 24, 2004.

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto Senate Bill 487. SB 487 has two major provisions that both deserve additional discussion by the Legislature.

The first provision establishes a trust fund for a few natural gas producing counties that will use state severance tax monies to help provide local property tax relief to those counties. Today, as we search for ways to fund critical programs within our current fiscal limitations, our focus, and any available state dollars must be directed toward higher priorities.

The second provision allows nine counties the option of creating a new higher education facility in conjunction with the Board of Regents. This provision can be of great value, but to guarantee that all residents of Southwest Kansas are included in the opportunity for a new facility, I believe the Legislature, Board of Regents, and regional stakeholders must engage in more discussion and planning.

I support and will continue to search for ways to strengthen the rural Kansas economy. However, I believe that a much more extensive analysis of both provisions in SB 487 is needed because of their potential far-reaching consequences on the state budget and the future development of southwest Kansas. For these reasons I find it necessary to veto SB 487.

KATHLEEN SEBELIUS, *Governor*

Date: May 13, 2004

Pursuant to Article 2, §14 of the Kansas Constitution, I veto Senate Bill 376. Open government is essential to our democracy. Over the year's, transparency has been a bedrock principle of our state's campaign finance and ethics laws. As a public official, and a former member of the Governmental Ethics Commission, I believe the public is entitled to know what interest groups are seeking to influence state government by purchasing drinks, meals, and entertainment for elected officials, and how much those groups are spending. Senate Bill 376 would dim that transparency by removing a provision in current law that requires lobbyists to file reports when they purchase hospitality and or entertainment for legislative committees and when they pay expenses for legislators to attend conferences out of state. I believe the repeal of both provisions would deprive the public of important information.

Having said that, I want to make it clear that I support provisions in Senate Bill 376 to clarify the circumstances under which candidates for public office may transfer campaign funds. I encourage the Legislature to revisit that issue in separate legislation.

Proponents of Senate Bill 376 have said it is also need to clarify that legislators whose districts have been altered by redistricting can spend campaign funds in existing accounts. However, I have been assured by both the Office of the Attorney General and the Governmental Ethics Commission that a veto of SB 376 would not create problems for any legislators whose districts were changed as a result of the 2002 Legislative redistricting. Any candidate

who is running for the same seat, even if their district number changed as a result of redistricting, will be able to use existing funds to run for re-election.

KATHLEEN SEBELIUS, *Governor*

Date: May 20, 2004

Message to the Senate:

Today not only marks the final day of the 2004 Legislative session, it also - in all probability - marks the final time that Dave Kerr will preside over the Senate as its President.

That is a milestone worth noting.

I had the privilege of serving as a legislative colleague of Senator Kerr's during my eight years in the Kansas House of Representatives. As Governor, I have worked with Dave Kerr on a variety of issues, and it is my honor on behalf of the people of Kansas to formally thank the senator for his dedicated service to the state. He has been a powerful force for fiscal responsibility, economic growth and progressive social policy during his 20 years of service at the Capitol.

As a newly elected senator in the mid-1980s, Dave Kerr helped chart a new economic development strategy for the state. Twenty years later, he was still involved in innovative proposals. Most recently, his leadership was instrumental in passage of the Kansas Economic Growth Act of 2004.

Prior to being elected by his colleagues to lead the Senate, Dave Kerr earned a reputation as the state's foremost budget expert during his years as chairman of the Senate Ways and Means Committee. He served the taxpayers of Kansas well in that position by working to control spending and to make state government more efficient and responsive.

For our democracy to function properly, we must have a healthy competition of ideas. Though Senator Kerr and I are members of different political parties, I have never questioned his dedication to people of Kansas and to public service. His intellect and his leadership will be missed.

I wish Senator Kerr the best in all of his future endeavors.

GOVERNOR KATHLEEN SEBELIUS

Dated May 27, 2004

Message to the Senate:

For 16 years, Senator Lana Oleen has been a strong independent voice for her constituents. She also has been a consensus builder. The Senate and the state are losing a committed public servant who put the creation of good public policy ahead of politics.

The Senate and the state also are losing a passionate voice for education. A teacher by profession, Senator Oleen has worked tirelessly to maintain the excellence of Kansas schools.

Senator Oleen's considerable leadership skills have not gone unnoticed by legislative colleagues in other states. She has been elected to leadership positions in the National Conference of State Legislatures and was recently selected to chair the Midwestern Higher Education Commission.

During my eight years in the Kansas House of Representatives, Lana was a respected colleague. She and I worked closely together on several important issues.

As Governor, I have relied on her advice and counsel and will miss her steady hand as majority leader.

In the best tradition of Kansas' citizen Legislature, Lana Oleen has served our state well. She has given generously of her time and talents and Kansas is a better place for it.

On behalf of the citizens of Kansas, I would like to personally thank Senator Lana Oleen for her service to the state and wish her the best in all her future endeavors.

GOVERNOR KATHLEEN SEBELIUS

Dated May 27, 2004

Governor Sebelius was in the Senate Chamber to pay tribute to President Kerr and Senator Oleen and wish them well on their future endeavors.

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **Senate Substitute for HB 2471**.

Adoption of **SCR 1624**.

Also, announcing Representatives Sloan, Decker and Storm are appointed as conferees on **Senate Substitute for HB 2937** to replace Representatives Decker, O'Neal and Reardon.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1869—

A RESOLUTION congratulating and commending the Quinter High School forensic team and Coach Sue Ann Tebo for winning the 2004 Class 2A State Forensic Championship.

WHEREAS, The state meet was held on May 1, 2004, at Bethel College in Newton. Thirty-four teams across Kansas participated in the meet with six having full teams of 16 entries; and

WHEREAS, Quinter's team consisted of: Alex Machen, extemp; Mandy Blackwill, informative; Adrienne Ringer, informative and serious solo; Natalie Metcalf, serious solo; Craig Finger, humorous solo; Britney Funk, humorous solo and prose; Jaime Hainge, prose and oration; Jayme Evans, oration; Melisa Grandison, poetry; Kyle Cooksey and Jordan Blackwill, IDA; Michael Grandison and Zach Roesch, IDA; and Alex Machen and Craig Finger, duet; and

WHEREAS, Quinter brought home two individual champions, Adrienne Ringer in informative and Britney Funk, for the second consecutive year, in prose; and

WHEREAS, Led by three seniors who have given four years of hard work to the team, the team worked together to gain its championship—the outcome of which was very close until the end of the meet. Coach Tebo stated she had worked 14 years for the school's first state championship and it was definitely worth the wait: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the Quinter High School forensic team and Coach Tebo be congratulated and commended for winning the 2004 Kansas State High School Activities Association Class 2A State Forensic Championship; and

Be it further resolved: That the Secretary of the Senate be directed to send 21 enrolled copies of this resolution to Gary Feldkamp, Principal, Quinter High School, P.O. Box 459, Quinter, Kansas 67752.

On emergency motion of Senator Clark **SR 1869** was adopted unanimously.

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

SENATE RESOLUTION No. 1870—

A RESOLUTION congratulating and commending Myron Keller.

WHEREAS, Myron Keller, 29, of Palco is the recipient of the 2004 National Young Entrepreneur Award given by the U.S. Small Business Administration; and

WHEREAS, Mr. Keller is the owner of Quality Collision Repair & Service/Petro Plus in Palco. He attended the Salina Technical School and graduated at the top of his class in auto body repair. With a loan from Palco Community Development, Inc. and a Small Business Administration guaranteed loan from the Stockton National Bank he constructed a new building and started a new business in Palco in 1998. In 2001 he became a preowned automobile dealer and in 2003 started a 24 hour-a-day towing service. Currently the business has four full-time employees plus Myron and his wife, Rachel; and

WHEREAS, Mr. Keller is active in his community of 229 people as a member of the city council and in economic development for the community. He has assisted in planning and overseeing construction of a new city hall and helped the city receive a \$1.9 million grant which will be used to renovate housing and install a new sewer system; and

WHEREAS, Mr. Keller, who believes parents should be involved in their children's day-to-day lives, goes home for lunch each day to share some time with his two small children, Taylor and Hayley; and

WHEREAS, Mr. Keller received his award as regional entrepreneur at Wichita on May 5 and traveled to Orlando, Florida, to receive his national award at the National Small Business Week celebration on May 19 to 21; Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Myron Keller upon being named the Small Business Administration's 2004 Young Entrepreneur; and

Be it further resolved: That the Secretary of the Senate provide three enrolled copies of this resolution to Myron Keller, 102 Ash, Palco, KS 67657.

On emergency motion of Senator Clark **SR 1870** was adopted unanimously.

VETO SUSTAINED

Announcing a veto message from the Governor on **H Sub for SB 376**, An act concerning certain public officers and employees; relating to use of unexpended campaign funds; relating to the reporting of lobbyist expenses related to such public officers and employees; amending K.S.A. 25-4142, 25-4148, 25-4151, 25-4157a and 46-269 and K.S.A. 2003 Supp. 25-4143 and repealing the existing sections, was received and read.

There being no action on **H Sub for SB 376**, the veto was sustained.

Announcing a veto message from the Governor on **SB 487**, An act relating to taxation; concerning mineral severance tax; relating to disposition of revenue; creating the gas valuation depletion trust fund and providing for distribution of moneys therefrom; providing for the Ogallala public improvement district; amending K.S.A. 2003 Supp. 79-4227 and repealing the existing section, was received and read.

There being no action on **SB 487**, the veto was sustained.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2937**, 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 in lines 19 through 43;

By striking all on pages 2 through 30;

On page 31, by striking all in lines 9 through 14; following line 14, by inserting:

"Section 1. K.S.A. 72-1111, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 72-1111. (a) Subject to the other provisions of this section, every parent or person acting as parent in the state of Kansas, who has control over or charge of any child who has reached the age of seven years and is under the age of 18 years and has not attained a high school diploma or a general educational development (GED) credential, shall require such child to *be regularly enrolled in and* attend continuously each school year (1) a public school for the duration of the school term provided for in K.S.A. 72-1106, and amendments thereto, or (2) a private, denominational or parochial school taught by a competent instructor for a period of time which is substantially equivalent to the period of time public school is maintained in the school district in which the private, denominational or parochial school is located. If the child is 16 or 17 years of age, the parent or person acting as parent, by written consent, or the court, pursuant to a court order, may allow the child to be exempt from the compulsory attendance requirements of this section.

(b) If the child is 16 or 17 years of age, the child shall be exempt from the compulsory attendance requirements of this section if (1) the child is regularly enrolled in *and attending* a program recognized by the local board of education as an approved alternative educational program, or (2) the child and the parent or person acting as parent attend a final counseling session conducted by the school during which a disclaimer to encourage the child to remain in school or to pursue educational alternatives is presented to and signed by the child and the parent or person acting as parent. The disclaimer shall include information regarding the academic skills that the child has not yet achieved, the difference in future earning

power between a high school graduate and a high school drop out, and a listing of educational alternatives that are available for the child, or (3) *the child is regularly enrolled in a school as required by subsection (a) and is concurrently enrolled in a postsecondary educational institution, as defined by K.S.A. 74-3201b, and amendments thereto. The provisions of this clause (3) shall be applicable to children from and after July 1, 1997 and shall relate back to such date.*

(c) Any child who is under the age of seven years, but who is enrolled in school, is subject to the compulsory attendance requirements of this section. Any such child may be withdrawn from enrollment in school at any time by a parent or person acting as parent of the child and thereupon the child shall be exempt from the compulsory attendance requirements of this section until the child reaches the age of seven years or is re-enrolled in school.

(d) Any child who is determined to be an exceptional child, except for an exceptional child who is determined to be a gifted child, under the provisions of the special education for exceptional children act is subject to the compulsory attendance requirements of such act and is exempt from the compulsory attendance requirements of this section.

(e) No child attending public school in this state shall be required to participate in any activity which is contrary to the religious teachings of the child if a written statement signed by one of the parents or a person acting as parent of the child is filed with the proper authorities of the school attended requesting that the child not be required to participate in such activities and stating the reason for the request.

(f) When a recognized church or religious denomination that objects to a regular public high school education provides, offers and teaches, either individually or in cooperation with another recognized church or religious denomination, a regularly supervised program of instruction, which is approved by the state board of education, for children of compulsory school attendance age who have successfully completed the eighth grade, participation in such a program of instruction by any such children whose parents or persons acting as parents are members of the sponsoring church or religious denomination shall be regarded as acceptable school attendance within the meaning of this act. Approval of such programs shall be granted by the state board of education, for two-year periods, upon application from recognized churches and religious denominations, under the following conditions: (1) Each participating child shall be engaged, during each day on which attendance is legally required in the public schools in the school district in which the child resides, in at least five hours of learning activities appropriate to the adult occupation that the child is likely to assume in later years;

(2) acceptable learning activities, for the purposes of this subsection, shall include parent (or person acting as parent) supervised projects in agriculture and homemaking, work-study programs in cooperation with local business and industry, and correspondence courses from schools accredited by the national home study council, recognized by the United States office of education as the competent accrediting agency for private home study schools;

(3) at least 15 hours per week of classroom work under the supervision of an instructor shall be provided, at which time students shall be required to file written reports of the learning activities they have pursued since the time of the last class meeting, indicating the length of time spent on each one, and the instructor shall examine and evaluate such reports, approve plans for further learning activities, and provide necessary assignments and instruction;

(4) regular attendance reports shall be filed as required by law, and students shall be reported as absent for each school day on which they have not completed the prescribed minimum of five hours of learning activities;

(5) the instructor shall keep complete records concerning instruction provided, assignments made, and work pursued by the students, and these records shall be filed on the first day of each month with the state board of education and the board of education of the school district in which the child resides;

(6) the instructor shall be capable of performing competently the functions entrusted thereto;

(7) in applying for approval under this subsection a recognized church or religious denomination shall certify its objection to a regular public high school education and shall specify, in such detail as the state board of education may reasonably require, the program

of instruction that it intends to provide and no such program shall be approved unless it fully complies with standards therefor which shall be specified by the state board of education;

(8) if the sponsors of an instructional program approved under this subsection fail to comply at any time with the provisions of this subsection, the state board of education shall rescind, after a written warning has been served and a period of three weeks allowed for compliance, approval of the programs, even though the two-year approval period has not elapsed, and thereupon children attending such program shall be admitted to a high school of the school district.

(g) As used in this section, ~~the terms "parent":~~

(1) "Parent" and "person acting as parent" have the meanings respectively ascribed thereto in K.S.A. 72-1046, and amendments thereto.

(2) "Regularly enrolled" means enrolled in five or more hours of instruction each school day. For the purposes of subsection (b)(3), hours of instruction received at a postsecondary educational institution shall be counted.

New Sec. 2. Sections 3 through 23 shall be known and may be cited as the Kansas private and out-of-state postsecondary educational institution act.

New Sec. 3. As used in the Kansas private and out-of-state postsecondary educational institution act:

(a) "Academic degree" means any associate, bachelor's, first professional, master's, intermediate (specialist) or doctor's degree.

(b) "Accreditation" means an accreditation by an agency recognized by the United States department of education.

(c) "Branch campus" means any subsidiary place of business maintained within the state of Kansas by an institution at a site which is separate from the site of the institution's principal place of business and at which the institution offers a course or courses of instruction or study identical to the course or courses of instruction or study offered by the institution at its principal place of business.

(d) "Commission" means the advisory commission on private and out-of-state postsecondary educational institutions established pursuant to this act.

(e) "Distance education" means any course delivered primarily by use of correspondence study, audio, video or computer technologies.

(f) "Out-of-state postsecondary educational institution" means a postsecondary educational institution chartered, incorporated or otherwise organized under the laws of any jurisdiction other than the state of Kansas.

(g) "Institution" means an out-of-state or private postsecondary educational institution.

(h) "Institution employee" means any person, other than an owner, who directly or indirectly receives compensation from an institution for services rendered.

(i) "Owner of an institution" means:

(1) In the case of an institution owned by an individual, that individual;

(2) in the case of an institution owned by a partnership, all full, silent and limited partners;

(3) in the case of an institution owned by a corporation, the corporation, its directors, officers and each shareholder owning shares of issued and outstanding stock aggregating at least 10% of the total of the issued and outstanding shares; and

(4) in the case of an institution owned by a limited liability company, the company, its managers and all its members.

(j) "Person" means an individual, firm, partnership, association or corporation.

(k) "Physical presence" means the employment in Kansas of a Kansas resident for the purpose of administering, coordinating, teaching, training, tutoring, counseling, advising or any other activity on behalf of the institution, or the delivery of, or the intent to deliver, instruction in Kansas with the assistance from any entity within the state in delivering the instruction including, but not limited to, a cable television company or a television broadcast station that carries instruction sponsored by the institution.

(l) "Private postsecondary educational institution" means an entity which:

(1) Is a business enterprise, whether operated on a profit or not-for-profit basis, which has a physical presence within the state of Kansas or which solicits business within the state of Kansas;

(2) offers a course or courses of instruction or study through classroom contact or by distance education, or both, for the purpose of training or preparing persons for a field of endeavor in a business, trade, technical or industrial occupation or which offers a course or courses leading to an academic degree; and

(3) is not specifically exempted by the provisions of this act.

(m) "Representative" means any person employed by an institution to act as an agent, solicitor or broker to procure students or enrollees for the institution by solicitation within this state at any place other than the office or a place of business of the institution.

(n) "State board" means the Kansas board of regents or the board's designee.

(o) "Support" or "supported" means the primary source and means by which an institution derives revenue to perpetuate operation of the institution.

(p) "University" means a postsecondary educational institution authorized to offer bachelor degrees together with graduate or first professional degrees.

(q) "State educational institution" means any state educational institution as defined by K.S.A. 76-711, and amendments thereto.

(r) "This act" means the Kansas private and out-of-state postsecondary educational institution act.

New Sec. 4. The Kansas private and out-of-state postsecondary educational institution act shall not apply to:

(a) An institution supported primarily by Kansas taxation from either a local or state source;

(b) an institution or training program which offers instruction only for avocational or recreational purposes as determined by the state board;

(c) a course or courses of instruction or study, excluding degree-granting programs, sponsored by an employer for the training and preparation of its own employees, and for which no tuition or other fee is charged to the student;

(d) a course or courses of instruction or study sponsored by a recognized trade, business or professional organization having a closed membership for the instruction of the members of the organization, and for which no tuition or other fee is charged to the student;

(e) an institution which is otherwise regulated and approved under any other law of this state;

(f) a course or courses of special study or instruction having a closed enrollment and financed or subsidized on a contract basis by local or state government, private industry, or any person, firm, association or agency, other than the student involved;

(g) an institution financed or subsidized by federal or special funds which has applied to the state board for exemption from the provisions of this act and which has been declared exempt by the state board because it has found that the operation of such institution is outside the purview of this act;

(h) the Kansas City college and bible school, inc.; and

(i) any postsecondary educational institution which was granted approval to confer academic or honorary degrees by the state board of education under the provisions of K.S.A. 17-6105 prior to its repeal.

New Sec. 5. (a) The state board may adopt rules and regulations for the administration of this act. Prior to the adoption of any such rules and regulations, the state board shall afford the advisory commission an opportunity to make recommendations thereon.

(b) Specific standards shall be set for determining those institutions which qualify for approval to confer or award academic degrees. Such standards shall be consistent with standards applicable to state educational institutions under the control and supervision of the state board.

(c) The state board shall maintain a list of institutions that have been issued a certificate of approval.

(d) Any state agency having information which will enable the state board to exercise its powers and perform its duties in administering the provisions of this act shall furnish such information when requested by the state board.

New Sec. 6. (a) The advisory commission on private and out-of-state postsecondary educational institutions is hereby created. The commission shall consist of nine members appointed by the state board. Except as provided by this section, members shall be appointed

for terms of four years. Vacancies shall be filled by the state board for the unexpired term. Five members of the commission shall be owners or managers of private postsecondary educational institutions, at least two of the five members shall represent institutions, which at the time of appointment of such members, have enrollments of under 125 students, and at least one shall represent a degree granting institution. Four members shall be selected from among persons representing: Secondary schools, postsecondary schools, business and industry, members of the employment community, economic development interests of the state and health occupations.

(b) The commission shall elect one member as chairperson of the commission and such other officers as may be necessary.

(c) The commission shall meet at least once annually in Topeka during the month of October, and shall conduct special meetings on the call of the chairperson or the state board or at the request of at least four members of the commission.

(d) Members attending meetings of such commission, or attending a subcommittee meeting thereof authorized by such commission, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto.

(e) A majority of the commission is a quorum to conduct business, but no less than four members must concur to pass upon any matter before the commission.

(f) The commission may recommend to the state board such policies, minimum standards and rules and regulations that the commission deems necessary for administering the provisions of this act.

New Sec. 7. (a) No institution may operate within this state without obtaining a certificate of approval from the state board as provided in this act. No institution shall confer or award any degree, whether academic or honorary, unless such institution has been approved for such purpose by the state board of regents.

(b) Any contract entered into by or on behalf of any owner, employee or representative of an institution which is subject to the provisions of this act, but which has not obtained a certificate of approval, shall be unenforceable in any action.

New Sec. 8. (a) Each institution shall apply to the state board for a certificate of approval. An institution shall not be required to obtain a separate certificate of approval for maintenance of any branch institution.

(b) An application for a certificate of approval shall be made on a form prepared and furnished by the state board and shall contain such information as may be required by the state board.

(c) The state board may issue a certificate of approval upon determination that an institution meets the standards established by the state board. The state board may issue a certificate of approval to any institution accredited by a regional or national accrediting agency recognized by the United States department of education without further evidence.

New Sec. 9. The state board shall issue a certificate of approval to an institution when the state board is satisfied that the institution meets minimum standards established by the state board by adoption of rules and regulations to insure that:

(a) Courses, curriculum and instruction are of such quality, content and length as may reasonably and adequately ensure achievement of the stated objective for which the courses, curriculum or instruction are offered;

(b) institutions have adequate space, equipment, instructional material and personnel to provide education and training of good quality;

(c) educational and experience qualifications of directors, administrators and instructors are such as may reasonably insure that students will receive instruction consistent with the objectives of their program of study;

(d) institutions maintain written records of the previous education and training of students and applicant students, and that training periods are shortened when warranted by such previous education and training or by skill or achievement tests;

(e) a copy of the course outline, schedule of tuition, fees and other charges, settlement policy, rules pertaining to absence, grading policy and rules of operation and conduct are furnished to students upon entry into class;

(f) upon completion of training or instruction, students are given certificates, diplomas or degrees as appropriate by the institution indicating satisfactory completion of the program;

(g) adequate records are kept to show attendance, satisfactory academic progress and enforcement of satisfactory standards relating to attendance, progress and conduct;

(h) institutions comply with all local, state and federal regulations;

(i) institutions are financially responsible and capable of fulfilling commitments for instruction;

(j) institutions do not utilize erroneous or misleading advertising, either by actual statement, omission or intimation; and

(k) institutions have and maintain a policy, which shall be subject to state board approval, for the refund of unused portions of tuition, fees and other charges if a student enrolled by the institution fails to begin a course or withdraws or is discontinued therefrom at any time prior to completion. Such policies shall take into account those costs of the institution that are not diminished by the failure of the student to enter or complete a course of instruction.

New Sec. 10. (a) After review of an application for a certificate of approval and if the state board determines that the institution meets the requirements of this act, the state board shall issue a certificate of approval to the institution. Certificates of approval shall be in a form specified by the state board. Certificates of approval shall state:

(1) The date of issuance and term of approval;

(2) the correct name and address of the institution;

(3) the signature of the chief executive officer of the Kansas board of regents or a person designated by the state board to administer the provisions of this act; and

(4) any other information required by the state board.

(b) Certificates of approval shall be valid for a term of one year.

(c) Each certificate of approval shall be issued to the owner of an institution and shall not be transferable. If a change in ownership of an institution occurs, the new owner shall apply within 30 days prior to the change in ownership for a new certificate of approval. The state board may waive the thirty-day requirement upon determination that an emergency exists and that the waiver and change in ownership would be in the best interests of students currently enrolled in the institution. Whenever a change in ownership occurs as a result of death, court order or operation of law, the new owner shall apply immediately for a new certificate of approval.

(d) At least 60 days prior to expiration of a certificate of approval, the state board shall forward to the institution a renewal application form.

(e) Any institution which is not yet in operation when its application for a certificate of approval is filed shall not accept payments for tuition, fees or other enrollment charges until receipt of the certificate of approval.

(f) Any institution which does not plan to renew a certificate of approval shall notify the state board of its intent not to renew at least 60 days prior to the expiration date of the certificate of approval.

New Sec. 11. (a) After review of an application for a certificate of approval and if the state board determines that the applicant does not meet the requirements of this act, the state board shall refuse to issue the certificate and set forth the reasons for the determination.

(b) If an applicant, upon written notification of refusal by the state board to issue a certificate of approval, desires to contest such refusal, the applicant shall notify the state board in writing, within 15 days after the date of service of such notice of refusal, of the desire to be heard. Such applicant shall be afforded a hearing in accordance with the provisions of the Kansas administrative procedure act. Upon conclusion of any such hearing, the state board shall issue a certificate of approval or a final refusal to do so.

(c) If an applicant, upon service of notice of refusal by the state board to issue a certificate of approval, fails to request a hearing within 15 days after the date of service of such notice of refusal, the state board's refusal shall be final.

New Sec. 12. (a) The state board may revoke a certificate of approval or impose reasonable conditions upon the continued approval represented by a certificate. Prior to revocation or imposition of conditions upon a certificate of approval, the state board shall give written notice to the holder of the certificate of the impending action setting forth the grounds for the action contemplated to be taken and affording a hearing on a date within 30 days after

the date of such notice. Hearings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(b) A certificate of approval may be revoked or conditioned if the state board has reasonable cause to believe that the institution is in violation of any provision of this act or of any rules and regulations adopted under this act.

New Sec. 13. Any action of the state board pursuant to sections 10, 11 or 12, and amendments thereto, is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. If it appears to the state board on the basis of its own inquiries or investigations or as a result of a complaint that any provision of this act has been or may be violated, the state board may request the attorney general to institute an action enjoining such violation or for an order directing compliance with the provisions of this act.

New Sec. 14. (a) Each representative of an institution shall register with the state board. Application for registration may be made at any time on a form prepared and furnished by the state board and shall contain such information as may be required by the state board.

(b) Registration of a representative shall be effective upon receipt of notice from the state board and shall remain in effect until expiration of the certificate of approval of the institution employing such representative. Renewal of representative registration shall be in accordance with the renewal application form forwarded to the institution by the state board.

(c) Denial or revocation of registration of a representative by the state board shall be in accordance with the provisions of this act applicable to denial or revocation of a certificate of approval.

(d) A representative employed by more than one institution shall not be required to register for each institution when such institutions have a common ownership.

New Sec. 15. (a) Before a certificate of approval is issued under this act, a bond in the penal sum of \$20,000 shall be provided by the institution for the period for which the certificate of approval is to be issued. The obligation of the bond shall be that the institution and its officers, agents, representatives and other employees shall be bound, upon closure of the institution, to deliver or make available to the state board the records of all students who are in attendance at the institution at the time of closure or who have attended the institution at any time prior to closure. The bond shall be a corporate surety bond issued by a company authorized to do business in this state. The bond shall be filed with the state board. If the institution ceases operation, the state board may recover against the bond all necessary costs for the acquisition, permanent filing and maintenance of student records of the institution.

(b) In lieu of the corporate surety bond required under subsection (a), an institution may provide any similar certificate or evidence of indebtedness or insurance as may be acceptable to the state board if such certificate or evidence of indebtedness or insurance is conditioned that the requirements of subsection (a) shall be met.

New Sec. 16. (a) Subject to the provisions of subsection (b), no tuition in an amount greater than \$350 shall be collected from a student by any institution more than 30 days before the student receives classroom instruction, and not more than \$150 of such amount may be retained by an institution from any student who fails to enter the institution.

(b) In the case of distance education, no tuition in an amount greater than \$200 shall be collected from a student prior to the first submission of a lesson by the student, and not more than \$75 of such amount may be retained by an institution from any student who fails to enter the institution.

New Sec. 17. (a) No person shall:

- (1) Operate an institution without a certificate of approval;
- (2) solicit prospective students without being registered as required by this act;
- (3) accept contracts or enrollment applications from a representative who is not registered as required by this act;
- (4) use fraud or misrepresentation in advertising or in procuring enrollment of a student;
- (5) use the term "accredited" in the name or advertisement of the institution unless such institution is accredited as defined in this act; and
- (6) use the term "university" in the name or advertisement of the institution unless such institution is a university as defined by this act.

(b) Violation of any provision of subsection (a) or of any other provision of this act is a class C nonperson misdemeanor.

New Sec. 18. Upon application of the attorney general or a county or district attorney, a district court shall have jurisdiction to enjoin any violation of this act and to enjoin persons from engaging in business in this state. In any action brought to enforce the provisions of this act, if the court finds that a person willfully used any deceptive or misleading act or practice, the attorney general or a county or district attorney, upon petition to the court, may recover on behalf of the state, in addition to the criminal penalties provided in this act, a civil penalty not exceeding \$1,000 for each violation. For purposes of this section, a willful violation occurs when the person committing the violation knew or should have known that the conduct of the person consisted of acts or practices which were deceptive or misleading.

New Sec. 19. Any note or contract taken by any institution or its officers, directors, agents or representatives, without having complied with the provisions of this act, shall be null and void and any person who has entered into a contract with such institution or its officers, directors, agents or representatives shall be entitled to a full refund of the money or consideration paid plus interest accruing from the date of payment at a rate per annum equal to the rate specified in K.S.A. 16-207, and amendments thereto, together with other damages sustained by such person.

New Sec. 20. Whenever any institution negotiates any promissory instrument or note received from a student or on behalf of a student as payment of tuition or other fees charged by each institution, any person or assignee or holder to whom the instrument or note is assigned shall take such instrument or note subject to all defenses which would be available to the student from whom or on behalf of whom the instrument or note was received.

New Sec. 21. (a) The state board shall fix, charge and collect fees for certificates of approval, registration of representatives and providing transcripts to students who attended an institution that has ceased operation by adopting rules and regulations for such purposes, subject to the following limitations:

(1) For institutions domiciled or having their principal place of business within the state of Kansas:

Initial issuance of certificate of approval nondegree granting — not more than	\$1,700
Initial issuance of certificate of approval degree granting — not more than	\$2,000
Renewal of certificate of approval nondegree granting — not more than	\$1,200
Renewal of certificate of approval degree granting — not more than	\$1,600
Initial registration of representative — not more than	\$150
Annual renewal of registration of representative — not more than	\$100

(2) For institutions domiciled or having their principal place of business outside the state of Kansas:

Initial issuance of certificate of approval nondegree granting — not more than	\$3,400
Initial issuance of certificate of approval degree granting — not more than	\$3,800
Renewal of certificate of approval nondegree granting — not more than	\$2,400
Renewal of certificate of approval degree granting — not more than	\$2,800
Initial registration of representative — not more than	\$300
Annual renewal of registration of representative — not more than	\$200
Student transcript from institution that has ceased operation — not more than	\$10

(b) The state board shall determine on or before June 1 of each year the amount of revenue which will be required to properly carry out and enforce the provisions of the Kansas private and out-of-state postsecondary educational institution act for the next ensuing fiscal year and shall fix the fees authorized for such year at the sum deemed necessary for such purposes within the limits of this section. Prior to adoption of any such fees, the state

board shall afford the advisory commission an opportunity to make recommendations on the proposed fees.

(c) Fees may be charged to conduct onsite reviews for degree granting or to review curriculum in content areas where the state board does not have expertise.

New Sec. 22. (a) The state board shall remit all moneys received pursuant to the provisions of this act to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount remitted in the state treasury and shall credit the same to the private and out-of-state postsecondary educational institution fee fund to be used for the purpose of administering this act. All expenditures from such fee fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state board or the board's designee.

(b) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the private and out-of-state postsecondary educational institution fee fund interest earnings based on: (1) The average daily balance of moneys in such fee fund for the preceding month; and (2) the net earnings rate for the pooled money investment portfolio for the preceding month.

New Sec. 23. If any clause, paragraph, subsection or section of the Kansas private and out-of-state postsecondary educational institution act is found to be unconstitutional or invalid, it shall be conclusively presumed that the legislature would have enacted the remainder of the act without such unconstitutional or invalid clause, paragraph, subsection or section.

Sec. 24. K.S.A. 2003 Supp. 74-32,151, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 74-32,151. (a) This section and K.S.A. 74-32,152 through 74-32,159, and amendments thereto, shall be known and may be cited as the workforce development loan program act.

(b) As used in the workforce development loan act, "postsecondary educational institution" shall have the meaning ascribed thereto by K.S.A. 74-3201b, and amendments thereto.

(c) Within the limits of appropriations and private contributions therefor, and in accordance with the provisions of this act, the state board of regents may award such loans to Kansas residents who are enrolled in or admitted to an area vocational technical school, technical college, community college, vocational school coordinated under the state board of regents or associate degree programs at postsecondary educational institutions and who enter into a written agreement with the state board of regents as provided in K.S.A. 74-32,152 and amendments thereto.

(d) The board of regents may accept any private contributions to the program. The chief executive officer of the board of regents shall turn such contributions over to the state treasurer who shall deposit such moneys into the workforce development loan fund.

(e) After consultation with the secretaries of the departments of human resources, social and rehabilitation services and commerce, the board may establish a list of education programs in which an applicant must enroll to be eligible for a loan under this program.

(f) The loans shall be awarded on a priority basis to qualified applicants who have the greatest financial need with the highest priority given to those applicants with the greatest financial need who were in foster care on ~~or before~~ their 18th birthday or were released from foster care prior to their 18th birthday after having graduated from high school or completing the requirements for a general educational development (GED) certificate while in foster care. All loans shall be awarded to resident students attending area vocational technical schools, technical colleges, community colleges, area vocational schools or associate degree programs at postsecondary educational institutions. Special preference shall also be established for residents drawing unemployment compensation or such residents who were laid off from employment within the prior six months. The board may also establish preferences for workers deemed to be eligible for North American free trade agreement transition assistance under United States department of labor standards or the Kansas department of human resources standards.

(g) Loans awarded under this program shall be awarded on an annual basis and shall be in effect for one year unless otherwise terminated before the expiration of such period of time. Such loans shall be awarded for the payment of tuition, fees, books, room and board and any other necessary school related expenses.

Sec. 25. K.S.A. 74-32,161, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 74-32,161. (a) As used in this section:

(1) "Kansas educational institution" means ~~and includes area vocational schools, area vocational-technical schools, community colleges, state educational institutions and technical colleges a postsecondary educational institution as defined by K.S.A. 74-3201b, and amendments thereto.~~

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

(b) Subject to appropriations therefor and except as otherwise provided by this section, every Kansas educational institution shall provide for enrollment without charge of tuition, undergraduate fees, including registration, matriculation and laboratory fees for any eligible applicant. No Kansas educational institution shall be required by this section to provide for the enrollment of more than ~~three~~ five new applicants in any academic year. An applicant who was in the custody of social and rehabilitation services on the date such applicant reached 18 years of age, *who has graduated from a high school or fulfilled the requirements for a general educational development (GED) certificate while in foster care, was released from the custody of the Kansas department of social and rehabilitation services prior to age 18 after having graduated from a high school or fulfilled the requirements for a general educational development (GED) certificate while in foster care placement and in the custody of the Kansas department of social and rehabilitation services, or an applicant who was adopted from a foster care placement on or after such applicant's 16th birthday*, and who is accepted to a Kansas educational institution within two years following the date such applicant graduated from a high school or fulfilled the requirements for a general educational development (GED) certificate shall be eligible for enrollment at a Kansas educational institution without charge of tuition or such fees *through the semester the eligible applicant reaches 21 years of age* not to exceed eight semesters of undergraduate instruction, or the equivalent thereof, at all such institutions.

(c) Subject to appropriations therefor, any Kansas educational institution which at the time of enrollment did not charge tuition or fees as prescribed by subsection (b), and amendments thereto, of the eligible applicant may file a claim with the state board for reimbursement of the amount of such tuition and fees. The state board shall be responsible for payment of reimbursements to Kansas educational institutions upon certification by each such institution of the amount of reimbursement to which the educational institution is entitled. Such payments to Kansas educational institutions shall be made upon vouchers approved by the state board and upon warrants of the director of accounts and reports. Payments may be made by issuance of a single warrant to each Kansas educational institution at which one or more eligible applicants are enrolled for the total amount of tuition and fees not charged eligible applicants for enrollment at that institution. The director of accounts and reports shall cause such warrant to be delivered to the Kansas educational institution at which such eligible applicant or applicants are enrolled. If an eligible applicant discontinues attendance before the end of any semester, after the Kansas educational institution has received payment under this subsection, the institution shall pay to the state the entire amount which such eligible applicant would otherwise qualify to have refunded, not to exceed the amount of the payment made by the state on behalf of such applicant for the semester. All amounts paid to the state by Kansas educational institutions under this subsection shall be deposited in the state treasury and credited to the tuition waiver gifts, grants and reimbursements fund *unless such amount was from federal funds transferred under the authority of subsection (g) which funds shall be returned to the director of accounts and reports for deposit to the originating federal funding source.*

(d) The chief executive officer of the state board shall submit a report to the house and senate committees on education during the ~~2004~~ 2005 and ~~2006~~ 2007 regular session of the legislature on the results, outcomes and effectiveness of the tuition waiver program authorized by this section.

(e) The state board is authorized to receive any grants, gifts, contributions or bequests made for the purpose of supporting the tuition waiver program authorized by this section and to expend the same.

(f) There is hereby established in the state treasury the tuition waiver gifts, grants and reimbursements fund. Expenditures from the fund may be made for the purpose of payment

of claims of Kansas educational institutions pursuant to this section and for such purposes as may be specified with regard to any grant, gift, contribution or bequest. All such expenditures shall be authorized by the chief executive officer of the state board, or such officer's designee and made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chief executive officer of the state board, or such officer's designee.

(g) During each year, the chief executive officer of the state board shall make one or more certifications of the amount or amounts required to pay claims received from Kansas educational institutions for tuition and fees under this section to the director of accounts and reports and the secretary of social and rehabilitation services. *Each certification made by the chief executive officer shall include a provision stating that 20% of the total amount or amounts required to pay claims received from Kansas educational institutions for tuition and fees under this section are either cash, in-kind contributions, state general funds or other nonfederal sources not used to match other funds, and that the remaining 80% shall be paid from the federal award from the foster care assistance federal fund.* Upon receipt of each such certification, the director of accounts shall transfer the amount certified from moneys received under the federal Chafee foster care independence grant and credited to the foster care assistance federal fund of the department of social and rehabilitation services to the tuition waiver gifts, grants and reimbursements fund of the state board. *Annual expenditures for the tuition waiver program made by the Kansas department of social and rehabilitation services shall not exceed a maximum of more than 30% of the amount of the federal award in effect on July 1 of each state fiscal year.*

(h) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the tuition waiver gifts and grants fund interest earnings based on:

- (1) The average daily balance of moneys in the tuition waiver gifts and grants fund for the preceding month; and
- (2) the net earnings rate for the pooled money investment portfolio for the preceding month.

(i) Applicants eligible for the benefits under this section shall be exempt from the provisions of K.S.A. 76-717, and amendments thereto.

(j) The state board shall adopt rules and regulations requiring eligible applicants to be enrolled as a full-time undergraduate student in good academic standing and to maintain part-time employment to remain eligible and other rules and regulations, as appropriate, for administration of the applicable provisions of this section ~~and shall determine the eligibility of applicants for the benefits provided under this section.~~ *When there is a candidate that appears to meet the eligibility guidelines for federal Chafee funding administered by the Kansas department of social and rehabilitation services, the state board shall notify the Kansas department of social and rehabilitation services. The Kansas department of social and rehabilitation services shall notify the state board of approval of the candidate's eligibility.*

(k) The provisions of this section shall expire on June 30, 2006, except that any eligible applicant who received a tuition waiver before June 30, 2006, and is deemed by the state board to be eligible pursuant to this section shall be allowed to remain eligible until such applicant completes such applicant's course of study or becomes ineligible pursuant to the provisions of this section.

Sec. 26. K.S.A. 2003 Supp. 75-646, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 75-646. (a) Family postsecondary education savings accounts established pursuant to the provisions of K.S.A. 2003 Supp. 75-640 to 75-648, and amendments thereto shall be governed by the provisions of this section.

(b) A family postsecondary education savings account may be opened by any person or persons who desire to save money for the payment of the qualified higher education expenses of the designated beneficiary. Such persons shall be considered the account owner.

(1) An application for such account shall be in the form prescribed by the state treasurer and contain the following:

(A) The name, address and social security number or employer identification number of the account owner or owners;

- (B) the designation of a designated beneficiary;
 - (C) the name, address and social security number of the designated beneficiary;
 - (D) the certification relating to no excess contributions; and
 - (E) such other information as the state treasurer may require.
- (2) The state treasurer may establish a nominal nonrefundable application fee for such application.
- (c) ~~From and after January 1, 2002,~~ Any person may make contributions to the account after the account is opened.
- (d) Contributions to accounts may be made only in cash.
- (e) An account owner may withdraw all or part of the balance from an account on sixty-days' notice or such shorter period as may be authorized under rules and regulations governing the program.
- (f) (1) An account owner may change the designated beneficiary of an account to an individual who is a member of the family of the prior designated beneficiary in accordance with procedures established pursuant to the provisions of K.S.A. 2003 Supp. 75-640 to 75-648, and amendments thereto.
- (2) An account owner may transfer all or a portion of an account to another family postsecondary education savings account, the designated beneficiary of which is a member of the family as defined in section 529 of the federal internal revenue code of 1986, as amended.
- (3) Changes in designated beneficiaries and transfers under this subsection shall not be permitted to the extent that they would constitute excess contributions or unauthorized investment choices.
- (g) The program shall provide separate accounting for each designated beneficiary.
- (h) Subject to the provisions of section 529 of the internal revenue code of 1986, in effect on January 1, 2002, or later versions as established in rules and regulations adopted by the treasurer, an account owner of any account shall be permitted to direct the investment of any contributions to an account or the earnings thereon.
- (i) Neither an account owner nor a designated beneficiary may use an interest in an account as security for a loan. Any pledge of an interest in an account shall be of no force and effect.
- (j) Except as provided in K.S.A. 2003 Supp. 75-640 through 75-648, and amendments thereto, or section 529 of the federal internal revenue code of 1986, as amended, any withdrawal made within one year after an account has been opened under a qualified tuition program as defined in section 529 of the federal internal revenue code of 1986, as amended, is a nonqualified withdrawal.
- (k) (1) The state treasurer shall adopt rules and regulations to prevent contributions on behalf of a designated beneficiary in excess of an amount equal to the average amount of the qualified higher education expenses that would be incurred for five years of study at institutions of postsecondary education located in the midwest states. Such amount shall be determined annually by the state treasurer.
- (2) Such rules and regulations shall include requirements that any excess contributions with respect to a designated beneficiary be promptly withdrawn in a nonqualified withdrawal or transferred to another account.
- (l) (1) If there is any distribution from an account to any individual or for the benefit of any individual during a calendar year, such distribution shall be reported to the federal internal revenue service and the account owner or owners, the designated beneficiary, or the distributee to the extent required by federal law or regulation.
- (2) Statements shall be provided to each account owner at least once each year within 60 days after the end of the twelve-month period to which they relate. The statement shall identify the contributions made during a preceding twelve-month period, the total contributions made to the account through the end of the period, the value of the account at the end of such period, distributions made during such period and any other information that the state treasurer shall require to be reported to the account owner.
- (3) Statements and information relating to accounts shall be prepared and filed to the extent required by federal and state tax law.
- (m) (1) A state or local government, or agency or instrumentality thereof, or organization described in section 501(c)(3) of the federal internal revenue code of 1986, as amended,

may open and become the account owner of an account to fund scholarships for persons whose identity will be determined upon disbursement.

(2) In the case of any account opened pursuant to provision (1) of this subsection, the requirement set forth in subsection (b) that a designated beneficiary be designated when an account is opened shall not apply and each individual who receives an interest in such account as a scholarship shall be treated as a designated beneficiary with respect to such interest.

(n) An annual fee may be imposed upon the account owner or owners for the maintenance of the account.

(o) An account owner or designated beneficiary of a Kansas postsecondary education savings account must be a citizen or resident of the United States of America.

(p) The program shall disclose the following information in writing to each account owner and prospective account owner of a family postsecondary education savings account:

(1) The terms and conditions for purchasing a family postsecondary education savings account;

(2) any restrictions on the substitution of beneficiaries;

(3) the person or entity entitled to terminate the savings agreement;

(4) the period of time during which a beneficiary may receive benefits under the savings agreement;

(5) the terms and conditions under which money may be wholly or partially withdrawn from the program, including, but not limited to, any reasonable charges and fees that may be imposed for withdrawal;

(6) the probable tax consequences associated with contributions to and distributions from accounts; and

(7) all other rights and obligations pursuant to savings agreements, and any other terms, conditions and provisions deemed necessary and appropriate by the state treasurer.

(q) Nothing in K.S.A. 2003 Supp. 75-640 to 75-648, and amendments thereto, or in any savings agreement entered into pursuant to K.S.A. 2003 Supp. 75-640 to 75-648, and amendments thereto, shall be construed as a guarantee by the state of Kansas or any institution of postsecondary education that a beneficiary will be admitted to the institution of postsecondary education or, upon admission to any institution of postsecondary education, will be permitted to continue to attend or will receive a degree from such institution of postsecondary education.

~~(r) The amendments to this section by this act shall apply to any action or transaction taken or occurring from and after January 1, 2002. Moneys in a family postsecondary education savings account shall be exempt from attachment, execution or garnishment as provided by K.S.A. 60-2308, and amendments thereto.~~

Sec. 27. K.S.A. 2003 Supp. 79-32,117, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) There shall be added to federal adjusted gross income:

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax. This paragraph shall not apply to taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments thereto, for privilege tax year 1995, and all such years thereafter.

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments to such sections.

(vii) The amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto.

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2003 Supp. 79-32,204 and amendments thereto.

(ix) The amount of any ad valorem taxes and assessments paid and the amount of any costs incurred for habitat management or construction and maintenance of improvements on real property, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203 and amendments thereto.

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2003 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(c) There shall be subtracted from federal adjusted gross income:

(i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to that portion of such gain which is included in federal adjusted gross income.

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state for a taxable year prior to the effective date of this act, as amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to the extent included in gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income.

(vii) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1) *et seq.*

(ix) Amounts received by retired employees of a city and by retired employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14,106, and amendments thereto.

(x) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. 280 C.

(xi) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas Venture Capital, Inc.

(xii) For taxable years beginning after December 31, 1989, amounts received by retired employees of a board of public utilities as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249 and amendments thereto.

(xiii) For taxable years beginning after December 31, 1993, the amount of income earned on contributions deposited to an individual development account under K.S.A. 79-32,117h, and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation.

(xv) For all taxable years beginning after December 31, 1999, amounts not exceeding \$2,000, or \$4,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. *For all taxable years beginning after December 31, 2004, amounts not exceeding \$3,000, or \$6,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education.* The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2003 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

(d) There shall be added to or subtracted from federal adjusted gross income the taxpayer's share, as beneficiary of an estate or trust, of the Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and amendments thereto.

(e) The amount of modifications required to be made under this section by a partner which relates to items of income, gain, loss, deduction or credit of a partnership shall be determined under K.S.A. 79-32,131, and amendments thereto, to the extent that such items affect federal adjusted gross income of the partner.

Sec. 28. K.S.A. 2003 Supp. 13-13a25, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 13-13a25. (a) As used in K.S.A. 13-13a25 through 13-13a34, and amendments thereto:

(1) "Board of levy" means the board of county commissioners of every county in which there is not located a municipal university and the township trustee, township clerk and township treasurer, acting as a board, of every township within every county in which there is located a municipal university, except that board of levy shall not include a township within a county in which there is located a municipal university which has levied a countywide retailer's sales tax.

(2) "Municipal university" means a municipal university established under the provisions of article 13a of chapter 13 of Kansas Statutes Annotated.

(3) "Municipal university district" means the taxing district of a municipal university.

(4) "Taxing subdivision" means every county in which there is not located a municipal university and every township within every county in which there is located a municipal university, except that taxing subdivision shall not include a township within a county in which there is located a municipal university which has levied a countywide retailer's sales tax.

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

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 29. K.S.A. 2003 Supp. 13-13a26, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 13-13a26. (a) The board of regents of a municipal university, in accordance with rules and regulations of the state board, shall determine and collect an amount of out-district tuition to be charged for each student attending the municipal university whose residence is outside of the municipal university district.

(b) The board of levy of any taxing subdivision charged with payment of out-district tuition shall levy a tax on all of the taxable property of the taxing subdivision sufficient to pay all out-district tuition charges authorized by this act.

(c) The proceeds from the tax levied under authority of this section shall be deposited in a special fund for payment of out-district tuition. Upon receiving a statement of charges for out-district tuition the board of levy shall allow and pay the same promptly from the special fund. If there is insufficient or no money in the special fund, out-district tuition shall be paid from the general fund of the taxing subdivision or from the proceeds of the sale of no-fund warrants issued for the purpose of the payment of out-district tuition.

(d) The total out-district tuition charged by a municipal university shall be: (1) For the ~~2000~~ fiscal year, an amount equal to the number of duly enrolled out-district students times \$24 for each credit hour of each such duly enrolled out-district student; (2) for the ~~2001~~ fiscal year, an amount equal to the number of duly enrolled out-district students times \$18 for each credit hour of each such student; (3) for the ~~2002~~ fiscal year, the ~~2003~~ fiscal year ~~and the 2004 fiscal year~~ *and the 2005 fiscal year*, an amount equal to the number of duly enrolled out-district students times \$12 for each credit hour of each such student; and (4) (2) for the ~~2005~~ 2006 fiscal year, an amount equal to the number of duly enrolled out-district students times \$6 for each credit hour of each such student.

(e) Out-district tuition shall ~~only~~ be charged *only* for credit hours of students if such students, as determined by the state board, have not more than 64 credit hours from any institution of postsecondary education or the students have not more than 72 credit hours and are enrolled in terminal type nursing courses or freshman-sophomore preengineering courses.

(f) Expenditures for out-district tuition shall be exempt from the budget law of this state to the extent of such payments not anticipated in the budget of the taxing subdivision.

(g) The levy of taxes and the payment of out-district tuition by counties required under the provisions of this section shall not be subject to the exercise of home rule by counties under the provisions of article 1 of chapter 19 of Kansas Statutes Annotated. ~~Counties shall have no power to exempt from, or effect changes in, the provisions of this section K.S.A. 19-101a, and amendments thereto.~~

(h) Taxes levied by townships under the authority of this section shall be in addition to all other tax levies authorized or limited by law and shall not be subject to or within the aggregate tax levy limit prescribed by K.S.A. 79-1962, and amendments ~~thereof~~ *thereto*.

(i) In May of each fiscal year, the board of regents shall notify each board of levy of the approximate amount of out-district tuition which will be charged to the taxing subdivision in the succeeding fiscal year.

(j) The provisions of this section shall expire on June 30, ~~2005~~ *2006*.

Sec. 30. K.S.A. 2003 Supp. 13-13a27, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 13-13a27. (a) Out-district tuition shall be based only upon enrollments of students who are residents of the state of Kansas. For the purpose of determination of out-district tuition: (1) Persons enrolling in a municipal university who, if adults, have not been, or if minors, whose parents have not been, residents of the state of Kansas for six months prior to enrollment for any term or session are non-residents of the state of Kansas; and (2) persons enrolling in a municipal university who, if adults, have not been, or if minors, whose parents have not been, residents of the municipal university district for six months prior to enrollment for any term or session are nonresidents of the municipal university district.

(b) For the purpose of determining residence of persons, the residence of minors shall be determined as provided in K.S.A. 72-1046, and amendments thereto, and of adults as provided in subpart *twenty-third* of K.S.A. 77-201, and amendments thereto.

(c) The state board of regents may adopt rules and regulations prescribing criteria or guidelines for determination of residence of students and shall make conclusive determination of any residence matter for the purpose of determination of liability of taxing subdivisions for out-district tuition.

(d) The provisions of this section shall expire on June 30, ~~2005~~ *2006*.

Sec. 31. K.S.A. 2003 Supp. 13-13a29, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 13-13a29. (a) The determination of credit hours of duly enrolled out-district students shall be made at the end of the fifth week of the regular spring and fall semesters and at the end of the equivalent period for summer sessions. The determination of credit hours of duly enrolled out-district students for payments for short-term courses shall be made at such times as are prescribed by the state board of regents.

(b) On or before November 1 and on or before April 1 of each year, the president and treasurer of a municipal university shall certify under oath to the state board the total number of duly enrolled credit hours of out-district students of the municipal university during the current school term. The state board may require a municipal university to furnish any additional information deemed necessary by it to carry out the provisions of this act and shall prescribe such forms, to be approved by the attorney general, as may be necessary for making such reports.

(c) The state board and the post auditor may audit the records of a municipal university to verify the accuracy of the reports submitted by the municipal university. The state board may promulgate rules and regulations for the administration of this act.

(d) The provisions of this section shall expire on June 30, ~~2005~~ *2006*.

Sec. 32. K.S.A. 2003 Supp. 13-13a31, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 13-13a31. (a) Subject to the provisions of subsection (b), no out-district tuition shall be charged or paid for any student attending a municipal university whose residence outside the municipal university district is in a taxing subdivision in which there is located a community college.

(b) The provisions of subsection (a) shall not apply to any such out-district student when the course of study or program which the student selects, or a course of study or program which is substantially equivalent thereto, is not offered in the community college which is located in the taxing subdivision in which such student resides.

(c) The provisions of this section shall expire on June 30, ~~2005~~ *2006*.

Sec. 33. K.S.A. 2003 Supp. 13-13a32, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 13-13a32. (a) Subject to the provisions of subsection (b), no out-district tuition shall be charged to or paid by any county in which there is located a municipal university for any student attending a community college

whose residence outside the community college district is in a county in which there is located a municipal university.

(b) The provisions of subsection (a) shall not apply to any such out-district student when the course of study or program which the student selects, or a course of study or program which is substantially equivalent thereto, is not offered in the municipal university which is located in the county in which such student resides.

(c) The provisions of this section shall expire on June 20 30, ~~2005~~ 2006.

Sec. 34. K.S.A. 2003 Supp. 13-13a33, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 13-13a33. (a) The state board of regents shall adopt rules and regulations prescribing criteria or guidelines for the purpose of determining which courses of study and programs offered in the community colleges are substantially equivalent to the courses of study and programs offered in municipal universities. A current, complete list of such courses of study and programs shall be maintained on file in the office of the state board of regents, and shall be open for public inspection at any reasonable time.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 35. K.S.A. 2003 Supp. 13-13a34, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 13-13a34. (a) No out-district tuition charged by a municipal university shall be based upon any course or program which is taught in an area vocational school, an area vocational-technical school, or a technical college under an agreement with the municipal university and for which payments of state or federal moneys are made to the area vocational school, area vocational-technical school, or technical college under the provisions of article 44 of chapter 72 of Kansas Statutes Annotated.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 36. K.S.A. 2003 Supp. 19-101a, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

(1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

(2) Counties may not consolidate or alter county boundaries.

(3) Counties may not affect the courts located therein.

(4) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

(5) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(6) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271—74th congress, or amendments thereof.

(7) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

(8) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(9) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(10) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(12) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

(13) Except as otherwise specifically authorized by K.S.A. 12-1,101 through 12-1,109, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

(14) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto.

(15) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

(16) (A) Counties may not exempt from or effect changes in K.S.A. 13-13a26, and amendments thereto.

(B) This provision shall expire on June 30, ~~2005~~ 2006.

(17) (A) Counties may not exempt from or effect changes in K.S.A. 71-301a, and amendments thereto.

(B) This provision shall expire on June 30, ~~2005~~ 2006.

(18) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.

(19) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-1260 through 12-1270 and 12-1276, and amendments thereto.

(20) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

(21) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

(22) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

(23) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.

(24) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.

(25) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.

(26) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.

(27) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204, and amendments thereto.

(28) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.

(29) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.

(30) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-1,178 through 65-1,199 or K.S.A. 2003 Supp. 17-5909, and amendments thereto.

(31) Counties may not exempt from or effect changes in K.S.A. 2003 Supp. 80-121, and amendments thereto.

(32) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.

(c) Any resolution adopted by a county which conflicts with the restrictions in subsection (a) is null and void.

Sec. 37. K.S.A. 2003 Supp. 71-301a, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 71-301a. (a) The board of trustees, in accordance with rules and regulations of the state board, shall determine an amount of out-district tuition to be charged for each out-district student attending the community college. The board of county commissioners of any county charged with payment of out-district tuition shall levy a tax on all of the taxable property of the county sufficient to pay all out-district tuition charges authorized by this act. The proceeds from the tax levied under authority of this section shall be deposited in a special fund for payment of out-district tuition. Upon receiving a statement of charges for out-district tuition, the board of county commissioners shall allow and pay the same from the special fund within 45 days from the receipt of such statement. If there is insufficient or no money in the special fund, out-district tuition shall be paid from the county general fund or from the proceeds of the sale of no-fund warrants issued for the purpose of the payment of out-district tuition. If the board of county commissioners fails to pay such amount at the time required under this subsection, the board of trustees shall notify the state board of such failure to pay and shall certify to the state board the amount to be paid. Upon receipt by the state board of such notification, the amount to be paid as certified to the state board shall become an amount due and owing to the state board. The state board shall notify the board of county commissioners that this amount is now due and owing to the state board. If the board of county commissioners fails to pay such amount to the state board within 14 days of the receipt of such notification, the state board shall initiate proceedings under K.S.A. 75-6201 *et seq.* for the collection of such money. Money paid to or collected by the state board under this subsection shall be deposited in the out-district tuition suspense account which is hereby created in the state treasury. The state board shall pay moneys from this account, in accordance with rules and regulations of the state board, to the community colleges entitled to receive such money.

(b) The total out-district tuition charged by a community college shall be: (1) For the ~~2000~~ fiscal year, an amount equal to the number of duly enrolled out-district students times \$24 for each credit hour of each such student; (2) for the 2001 fiscal year, an amount equal to the number of duly enrolled out-district students times \$18 for each credit hour of each such student; (3) for the 2002 fiscal year, the 2003 fiscal year and the 2004 fiscal year *and the 2005 fiscal year*, an amount equal to the number of duly enrolled out-district students times \$12 for each credit hour of each such student; and ~~(4)~~ (2) for the ~~2005~~ 2006 fiscal year, an amount equal to the number of duly enrolled out-district students times \$6 for each credit hour of each such student.

(c) In May of each fiscal year, the board of trustees shall notify the board of county commissioners of the approximate amount of out-district tuition which will be charged to the county in the succeeding fiscal year.

(d) Expenditures for out-district tuition shall be exempt from the budget law of this state to the extent of such payments not anticipated in the budget of the county.

(e) The provisions of this section shall take effect and be in force on July 1, 1999, and shall expire on June 30, 2005 2006.

Sec. 38. K.S.A. 2003 Supp. 71-304, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 71-304. (a) Notwithstanding any

provision contained in chapter 71 of Kansas Statutes Annotated to the contrary, and subject to the provisions of K.S.A. 71-305, and amendments thereto, no out-district tuition shall be charged or paid for any student attending a community college whose residence outside the community college district is in another community college district.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 39. K.S.A. 2003 Supp. 71-305, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 71-305. (a) The provisions of K.S.A. 71-304, and amendments thereto, do not apply to any out-district student when the course of study or program which the student selects, or a course of study or program which is substantially equivalent thereto, is not offered in the community college of the district in which such student resides.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 40. K.S.A. 2003 Supp. 71-306, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 71-306. (a) The state board of regents shall adopt rules and regulations prescribing criteria or guidelines for the purpose of determining which courses of study and programs offered in the community colleges are substantially equivalent. A current, complete list of such courses of study and programs shall be maintained on file in the office of the state board of regents, and shall be open for public inspection at any reasonable time.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 41. K.S.A. 2003 Supp. 71-308, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 71-308. (a) No out-district tuition charges shall be based upon credit hours in any subject or course the principal part of which is taught at a location outside the county of the main campus of a community college, unless the location of such subject or course is specifically authorized by the state board of regents.

(b) (1) No out-district tuition charges shall be based upon credit hours in any subject or course which is taught in a county in which the main campus of a state educational institution is located, unless the teaching of such subject or course is specifically authorized by the chief executive officer of the state educational institution or by a designee of the chief executive officer. The chief executive officer of each state educational institution may designate and authorize a person or committee to act on behalf of the chief executive officer in granting the authorizations required by this subsection. No authorization required by this subsection shall be considered to be or construed in any manner as an agreement provided for by subsection (c).

(2) For the purposes of this subsection, the term "main campus of a state educational institution" as applied to Kansas state university of agriculture and applied science means and includes the campus of the university located in Riley county and the campus of the university's college of technology located in Saline county.

(3) The provisions of this subsection are subject to the provisions of subsection (c).

(c) No out-district tuition charges shall be based upon credit hours in any subject or course all or the principal part of which is taught at Fort Hays state university or at Wichita state university under an agreement for the teaching of such subject or course entered into by a community college and either such university. An agreement entered into under the provisions of this subsection for the teaching of a subject or course by a community college at Fort Hays state university or at Wichita state university shall constitute the authorization required by subsection (b) for the teaching of such subject or course, and no separate authorization under subsection (b) shall be required.

(d) No out-district tuition charges shall be based upon any course or program if such course or program is taught in an area vocational school, an area vocational-technical school, or a technical college under an agreement with a community college and for which payments of state or federal moneys are made to the area vocational school, the area vocational-technical school, or the technical college under the provisions of article 44 of chapter 72 of Kansas Statutes Annotated.

(e) No out-district tuition charges shall be based upon any motorcycle driver safety course conducted by a community college.

(f) The provisions of this section shall take effect and be in force on July 1, 1999, and shall expire on June 30, ~~2005~~ 2006.

Sec. 42. K.S.A. 2003 Supp. 71-401, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 71-401. (a) Persons enrolling in a community college who, if adults, have not been, or if minors, whose parents have not been residents of the county in which is located the principal campus of the community college for at least six months prior to enrollment for any term or session are nonresidents of the community college district for the purpose of determining liability of counties for payment of out-district tuition.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 43. K.S.A. 2003 Supp. 71-402, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 71-402. (a) For the purpose of determining the county of residence of persons, residence of minors shall be determined as provided in K.S.A. 72-1046, and amendments thereto, and of adults as provided in subpart *Twenty-third* of K.S.A. 77-201, and amendments thereto.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 44. K.S.A. 2003 Supp. 71-403, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 71-403. (a) The state board of regents may adopt rules and regulations prescribing criteria or guidelines for determination of residence of students for the purpose of determining liability of counties for out-district tuition of students in community colleges. The state board may make conclusive determination of any residence matter for the purpose of determination of out-district tuition.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 45. K.S.A. 2003 Supp. 71-610, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 71-610. (a) Notwithstanding any provision contained in chapter 71 of Kansas Statutes Annotated to the contrary, whenever there are two community college districts located within one county, no out-district tuition shall be charged for any student residing in such county and attending either such community college.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 46. K.S.A. 2003 Supp. 71-1705, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 71-1705. (a) Notwithstanding any provision contained in chapter 71 of Kansas Statutes Annotated to the contrary, whenever any area vocational school or area vocational-technical school consolidates with a community college in accordance with the provisions of this act, no out-district tuition shall be charged for any student enrolled in any vocational education course or program offered by the community college if such course or program was taught in the area vocational school or area vocational-technical school immediately prior to the consolidation of such area vocational school or area vocational-technical school with such community college and as a result of such consolidation such course or program is now being offered by the community college.

(b) The provisions of this section shall expire on June 30, ~~2005~~ 2006.

Sec. 47. K.S.A. 72-4432, as repealed by section 49 of 2004 House Bill No. 2795, is hereby revived and amended to read as follows: 72-4432. The distribution of postsecondary aid shall be made from appropriations therefor each school year, commencing ~~November 1, 1974~~ August 1, 2004, as follows:

(a) The amount of postsecondary aid for each school as computed by the state board shall be distributed in payments as follows: On ~~November 1~~ August 1 an amount equal to 50% of the estimated entitlement for the school year, on ~~March 1~~ an amount equal to 30% of such entitlement and on ~~May 1~~ and on January 1 the balance of such entitlement with adjustments for overpayment or underpayment of the prior payments in accordance with the most recent, available information. The state board shall certify to the director of accounts and reports the amount due as postsecondary aid to each school five days before each payment date. If the amount appropriated shall be insufficient to pay in full the amount each school is entitled to receive as postsecondary aid as computed by the state board, then the entire amount remaining shall be prorated among all schools in proportion to the amount each school is entitled to receive. The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each school entitled to payment of postsecondary aid, upon vouchers approved by the state board. Upon receipt of such warrant, each such treasurer shall deposit the same in the operating fund of the school.

In the event any school is paid more than it is entitled to receive under any distribution made under this act, the state board shall notify the school of the amount of such overpayment, and such school shall remit the same to the state board. The state board shall remit any moneys so received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. If any such school fails so to remit, the state board shall deduct the excess amounts so paid from future payments becoming due to such school. In the event any school is paid less than the amount to which it is entitled under any distribution made under this act, the state board shall pay the additional amount due at any time within the school year in which the underpayment was made or within 60 days after the end of such school year.

New Sec. 48. (a) On and after July 1, 2006:

(1) No postsecondary educational institution shall print or encode a person's social security number on or into the person's identification card.

(2) Any distinguishing identifier assigned to the person's identification card shall be a combination of numbers or letters or both, which is unique to such person.

(3) A person's distinguishing identifier shall not, in any way, be based on or depend on the person's social security number.

(b) As used in this section:

(1) "Person" means an employee of or a student enrolled at a postsecondary educational institution.

(2) "Postsecondary educational institution" means and includes area vocational schools, area vocational-technical schools, community colleges, the municipal university, state educational institutions, technical colleges and private institutions of postsecondary education.

Sec. 49. K.S.A. 2003 Supp. 72-4470a is hereby amended to read as follows: 72-4470a. (a) On or before July 1, 2005, all technical college boards shall develop and present to the state board of regents a plan to replace the governing body described in K.S.A. 72-4470, and amendments thereto, with a new governing board, which shall be separate and independent of any board of education of any school district, to operate, control and manage the technical college. The plan shall include, but not be limited to, provisions relating to:

(1) The composition of the independent governing board;

(2) the territory of the technical college. If the territory of the technical college includes more than one county, the plan shall designate a home county;

(3) the method of election or appointment and the terms of service of the members of the independent governing board;

(4) the date upon which the independent governing board shall assume management and control of the technical college;

(5) the manner, terms upon which and extent to which the facilities, will be transferred to the independent governing board and the division of other assets and indebtedness and other liabilities; and

(6) the manner and terms upon which faculty, employees and students will be transferred to the independent governing board. Subject to the provisions of K.S.A. 2003 Supp. 72-4478, and amendments thereto, such provisions shall specify terms of employment and address other personnel matters.

(b) (1) Upon approval of the plan by the state board of regents and the governing body of the technical college which submitted the plan, and on the date determined in the approved plan, the independent governing board established under subsection (a) of this section shall operate subject to the rules, regulations and supervision of the state board of regents in the same manner as other technical colleges, technical schools and area vocational technical schools.

(2) After June 30, 2007, if the governing body of the technical college and the state board of regents have not approved a plan submitted pursuant to subsection (a), the state board of regents shall have the power to approve the plan and upon such approval and on the date determined in the approved plan, the independent governing board established pursuant to subsection (a) shall operate subject to the rules, regulations and supervision of the state board of regents in the same manner as other technical colleges, technical schools and area vocational technical schools.

(c) In addition to such other powers expressly granted by law and subject to the provisions of subsection (b), the governing board shall have the power to:

(1) Determine the vocational, technology and general education courses of instruction that will comprise the associate of applied science degree programs of the college;

(2) establish the requirements for satisfactory completion of the associate of applied science degree programs of the college;

(3) confer the associate of applied science degree upon students who successfully complete an associate of applied science degree program of the college and to award a certificate or diploma to students who successfully complete a vocational education program of the college; ~~and~~

(4) appoint teaching staff and ~~to~~ fix and determine teacher qualifications, duties and compensation. No teacher appointed to teach courses comprising the associate of applied science degree programs of the college shall be required to meet certification requirements greater than those required in the state educational institutions;

(5) *have custody of, and be responsible for, the property of the college and be responsible for the operation, management and control of the college;*

(6) *select a chairperson and such other officers as it deems desirable, from its membership;*

(7) *sue and be sued;*

(8) *appoint and fix the compensation and term of office of a president or chief administrative officer of the college;*

(9) *fix and determine, within state adopted standards, all other employees' qualifications, duties, compensation and all other items and conditions of employment;*

(10) *enter into contracts;*

(11) *accept any gifts, grants or donations;*

(12) *acquire and dispose of real or personal property;*

(13) *enter into lease agreements as lessor of any property owned or controlled by the college;*

(14) *adopt any rules and regulations, not inconsistent with any law or any rules and regulations of the state board of regents, which are necessary for the administration and operation of the college or for the conduct of business of the governing board;*

(15) *contract with one or more agencies, either public or private, whether located within or outside the territory of the college or whether located within or outside the state of Kansas for the conduct by any such agency of academic or vocational education for students of the college and to provide for the payment to any such agency for the contracted educational services from any funds or moneys of the college, including funds or moneys received from student tuition and fees;*

(16) *appoint as its resident agent for the purpose of service of process, either the president of the technical college or the chairperson of the governing board, or both;*

(17) *take any other action, not inconsistent with any law or any rules and regulations of the state board of regents, which is necessary or incidental to the establishment, operation and maintenance of the college.*

(18) *issue bonds for capital improvement projects, enter into bond covenants and take such ancillary action as the governing board approves, relating thereto except that such bonds shall not be secured by a pledge of any property tax revenues of the technical college; and*

(19) *enter into agreements with counties relating to funding for capital improvement projects at technical colleges.*

Sec. 50. K.S.A. 72-1111, as revived by section 1, 72-4432, as revived by section 47, and 74-32,161, as revived by section 25, and K.S.A. 2003 Supp. 13-13a25, as revived by section 28, 13-13a26, as revived by section 29, 13-13a27, as revived by section 30, 13-13a29, as revived by section 31, 13-13a31, as revived by section 32, 13-13a32, as revived by section 33, 13-13a33, as revived by section 34, 13-13a34, as revived by section 35, 19-101a, as revived by section 36, 71-301a, as revived by section 37, 71-304, as revived by section 38, 71-305, as revived by section 39, 71-306, as revived by section 40, 71-308, as revived by section 41, 71-401, as revived by section 42, 71-402, as revived by section 43, 71-403, as revived by section 44, 71-610, as revived by section 45, 71-1705, as revived by section 46, 72-4470a,

74-32,151, as revived by section 24, 75-646, as revived by section 26, and 79-32,117, as revived by section 27, are hereby repealed.

Sec. 51. K.S.A. 72-1111, as amended by section 1 of 2004 House Bill No. 2795, sections 2 through 23 of 2004 House Bill No. 2795, section 48 of 2004 House Bill No. 2795, 72-4432, as amended by section 47 of 2004 House Bill No. 2795, 72-4916, 72-4919, 72-4920, 72-4921, 72-4922, 72-4924 through 72-4937, inclusive, 72-4939, 72-4940, 74-3249 through 74-3253 and 74-32,161, as amended by section 25 of 2004 House Bill No. 2795, and K.S.A. 2003 Supp. 13-13a25, as amended by section 28 of 2004 House Bill No. 2795, 13-13a26, as amended by section 29 of 2004 House Bill No. 2795, 13-13a27, as amended by section 30 of 2004 House Bill No. 2795, 13-13a29, as amended by section 31 of 2004 House Bill No. 2795, 13-13a31, as amended by section 32 of 2004 House Bill No. 2795, 13-13a32, as amended by section 33 of 2004 House Bill No. 2795, 13-13a33, as amended by section 34 of 2004 House Bill No. 2795, 13-13a34, as amended by section 35 of 2004 House Bill No. 2795, 19-101a, as amended by section 36 of 2004 House Bill No. 2795, 71-301a, as amended by section 37 of 2004 House Bill No. 2795, 71-304, as amended by section 38 of 2004 House Bill No. 2795, 71-305, as amended by section 39 of 2004 House Bill No. 2795, 71-306, as amended by section 40 of 2004 House Bill No. 2795, 71-308, as amended by section 41 of 2004 House Bill No. 2795, 71-401, as amended by section 42 of 2004 House Bill No. 2795, 71-402, as amended by section 43 of 2004 House Bill No. 2795, 71-403, as amended by section 44 of 2004 House Bill No. 2795, 71-610, as amended by section 45 of 2004 House Bill No. 2795, 71-1705, as amended by section 46 of 2004 House Bill No. 2795, 72-4938, 74-32,151, as amended by section 24 of 2004 House Bill No. 2795, 75-646, as amended by section 26 of 2004 House Bill No. 2795, and 79-32,117, as amended by section 27 of 2004 House Bill No. 2795, are hereby repealed.

Sec. 52. This act shall take effect and be in force subsequent to the effective date of 2004 House Bill No. 2795 and shall take effect and be in force from and after its publication in the Kansas register.”;

In the title, by striking all in lines 10 through 16; following line 16, by inserting: “AN ACT concerning higher education; postsecondary educational institutions and tuition and fees relating thereto; attendance of certain students; savings programs; amending K.S.A. 2003 Supp. 72-4470a and repealing the existing section; reviving and amending K.S.A. 72-1111, as repealed by section 49 of 2004 House Bill No. 2795, 72-4432, as repealed by section 49 of 2004 House Bill No. 2795, and 74-32,161, as repealed by section 49 of 2004 House Bill No. 2795, and K.S.A. 2003 Supp. 13-13a25, as repealed by section 49 of 2004 House Bill No. 2795, 13-13a26, as repealed by section 49 of 2004 House Bill No. 2795, 13-13a27, as repealed by section 49 of 2004 House Bill No. 2795, 13-13a29, as repealed by section 49 of 2004 House Bill No. 2795, 13-13a31, as repealed by section 49 of 2004 House Bill No. 2795, 13-13a32, as repealed by section 49 of 2004 House Bill No. 2795, 13-13a33, as repealed by section 49 of 2004 House Bill No. 2795, 13-13a34, as repealed by section 49 of 2004 House Bill No. 2795, 19-101a, as repealed by section 49 of 2004 House Bill No. 2795, 71-301a, as repealed by section 49 of 2004 House Bill No. 2795, 71-304, as repealed by section 49 of 2004 House Bill No. 2795, 71-305, as repealed by section 49 of 2004 House Bill No. 2795, 71-306, as repealed by section 49 of 2004 House Bill No. 2795, 71-308, as repealed by section 49 of 2004 House Bill No. 2795, 71-401, as repealed by section 49 of 2004 House Bill No. 2795, 71-402, as repealed by section 49 of 2004 House Bill No. 2795, 71-403, as repealed by section 49 of 2004 House Bill No. 2795, 71-610, as repealed by section 49 of 2004 House Bill No. 2795, 71-1705, as repealed by section 49 of 2004 House Bill No. 2795, 74-32,151, as repealed by section 49 of 2004 House Bill No. 2795, 75-646, as repealed by section 49 of 2004 House Bill No. 2795, and 79-32,117, as repealed by section 49 of 2004 House Bill No. 2795, and by repealing the revived sections; also repealing K.S.A. 72-4916, 72-4919, 72-4920, 72-4921, 72-4922, 72-4924 through 72-4937, inclusive, 72-4939, 72-4940 and 74-3249 through 74-3253, inclusive, and K.S.A. 2003 Supp. 72-4938.”;

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

DWAYNE UMBARGER
JOHN VRATIL
ANTHONY HENSLEY
Conferees on part of Senate

TOM SLOAN
KATHE DECKER
SUE STORM
Conferees on part of House

Senator Umbarger moved to adopt the Conference Committee Report on **S Sub HB 2937**.

On roll call, the vote was: Yeas 36, Nays 0, Present and Passing 0, Absent or Not Voting 4.

Yeas: Adkins, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Morris, O'Connor, Oleen, Salmans, Schmidt, Schodorf, Steiner, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Allen, Donovan, Lyon, Pugh.

The Conference Committee report was adopted.

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **Senate Substitute for HB 2937**.

MESSAGE FROM THE HOUSE

Announcing the House herewith transmits the veto message from the Governor, together with the enrolled copy of **Senate Substitute for House Bill No. 2471**, An act making and concerning appropriations for the fiscal years ending June 30, 2004, June 30, 2005, June 30, 2006 and June 30, 2007; authorizing certain transfers and fees, imposing certain restrictions and limitations and directing or authorizing certain receipts, disbursements, capital improvements and acts incidental to the foregoing; repealing section 66 of 2004 House Bill No. 2675 was received on May 21, 2004 and was read before the House on May 27, 2004.

Message to the House of Representatives of the State of Kansas:

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return Senate Substitute for House Bill No. 2471 with my signature approving the bill, except for the items enumerated below.

Juvenile Justice Authority

New Position for Interstate Compact

That portion of Section 5(a) that reads as follows has been line-item vetoed:

“Operating expenditures

For the fiscal year ending June 30, 2005 \$46,700”

The Legislature appropriated \$46,700 from the State General Fund in FY 2005 to aid the Juvenile Justice Authority in administering the interstate compact for juvenile offenders. However, the agency will be able to cover any costs related to administration of the compact within its existing budget. As a result, I veto the funding that the Legislature added for this compact.

Members were given the opportunity to reconsider the line item veto. There having been no motion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

Department of Agriculture

New Food Safety Director

Sections 7(a) and 7(d) have been line-item vetoed in their entirety.

The Legislature approved my Executive Reorganization Order to transfer the Food Safety Program from the Department of Health and Environment to the Department of Agricul-

ture. My intention was to transfer the same resources of funding and positions from one agency to the other, thus resulting in no net effect on the budget. However, the Legislature added \$57,850 from the State General Fund for FY 2005 to finance a new Food Safety Director for the program. I veto the funding for this position as an expense that undermines the original intent of fiscal neutrality.

Members were given the opportunity to reconsider the line item veto. There having been no motion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

Board of Regents

Southwest Kansas Access Program

That portion of Section 13(b) that reads as follows has been line-item vetoed:

“Southwest Kansas access project

For the fiscal year ending June 30, 2005..... \$200,000

Provided, That the state board of regents is hereby authorized to transfer moneys from the southwest Kansas access project account to the appropriate account or accounts of the state general fund of any state educational institution under the control and supervision of the state board of regents.”

The Board of Regents was appropriated \$200,000 from the State General Fund for FY 2004 for this program, and another \$200,000 was approved for FY 2005 in the regular appropriations bill. In the omnibus appropriations bill, the Legislature appropriated still another \$200,000 for FY 2005. I veto the \$200,000 that was appropriated in the omnibus bill because it provides more funds than the agency can reasonably spend. Of the original \$200,000 appropriated for FY 2004, only a small portion has been expended to date. Therefore, it is projected that a significant portion of the original appropriation for FY 2004 will carry over in FY 2005. When combined with the new appropriation of \$200,000 for FY 2005 in the regular appropriations bill, sufficient funds will be available in FY 2005 to finance this program.

Members were given the opportunity to reconsider the line item veto. There having been no motion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

A motion was made that a line item which the Governor vetoed in **Senate Substitute for House Bill No. 2471** that reads as follows:

Attorney General

New White-Collar Crime Unit

That portion of Sections 14(a) that reads as follows has been line-item vetoed:

“For the fiscal year ending June 30, 2005..... \$200,000”

Section 14(b) has been line-item vetoed in its entirety.

The Legislature appropriated \$200,000 from the State General Fund and increased the agency’s position limitation by 2.0 FTE positions for a new white-collar crime unit for FY 2005. Investigation and prosecution of white-collar crime are important to protect the interests of the citizens of the State of Kansas. Currently, there are several state agencies that guard against white-collar crime activities, including the Office of the Kansas Securities Commissioner, the Kansas Insurance Department, the Office of the Bank Commissioner, and the Kansas Bureau of Investigation. I believe that these agencies and the Attorney General’s Office, in collaboration with local law enforcement agencies and county and district attorneys, have contributed significantly to the investigation and prosecution of white-collar crime across the state and will continue to do so. I therefore veto the funds and positions that the Legislature added for this purpose.

be passed. By a vote of 69 Yeas and 43 Nays, the motion not having received the required two-thirds majority of the elected members of the House voting in the affirmative, the motion did not prevail and the line item was sustained.

A motion was made that a line item which the Governor vetoed in **Senate Substitute for House Bill No. 2471** that reads as follows:

Department of Health & Environment**Pregnancy Maintenance**

Section 25(a) has been line-item vetoed in its entirety.

The Pregnancy Maintenance Initiative (PMI) issues grants to not-for-profit organizations that provide care to pregnant women. However, the PMI funding from the state is not the sole source of funding that these organizations receive. Because many different public health programs are competing for state resources, I veto the spending of limited State General Fund dollars for the pregnancy maintenance programs that have been and will continue to be supported by communities and other sources of funding.

be passed. By a vote of 88 Yeas and 24 Nays, the motion having received the required two-thirds majority of the elected members of the House voting in the affirmative, the motion prevailed and the line item passed.

A motion was made that a line item which the Governor vetoed in **Senate Substitute for House Bill No. 2471** that reads as follows:

Kansas Bureau of Investigation**Great Bend Lab Renovation**

Section 35(a) has been line-item vetoed in its entirety.

The Legislature authorized the expenditure of monies from the agency's Forensic Laboratory and Materials Fee Fund for FY 2005 through FY 2007 for renovation of the Great Bend laboratory. While this capital improvement project may have great merit, it should be handled through the normal budget process and considered in context with all of the other priorities that the agency may have. A proper review of this project, along with the mechanism for funding it in its entirety, should be presented in the agency's budget submission in September.

be passed. By a vote of 77 Yeas and 35 Nays, the motion not having received the required two-thirds majority of the elected members of the House voting in the affirmative, the motion did not prevail and the line item was sustained.

Department of Corrections**Visitor Centers**

Section 37(e) has been line-item vetoed in its entirety.

The Legislature funded the visitor centers in the amount of \$125,000 from the Inmate Benefit Fund in FY 2005. Of this amount, any expenditures over \$25,000 would have had to be matched dollar-for-dollar from federal funds, local contributions, or in-kind donations. Because of the state's financial situation, the Department of Corrections has seen a significant funding reduction for inmate programs over the past five fiscal years. Although the visitor centers have provided a useful service to inmates and their families, other priority inmate programs that have been reduced or eliminated should be restored first.

Members were given the opportunity to reconsider the line item veto. There having been no motion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

Selected Agencies**School Finance Plan**

Sections 43, 44, 45, and 46 have been line-item vetoed in their entirety.

These sections of the omnibus bill represent the Legislature's last unsuccessful attempt in passing a school finance plan. The sections make appropriations of State General Fund monies to the Department of Education for FY 2005, transfer funds from the State Highway Fund to the State General Fund at the end of FY 2005, and make appropriations for FY 2006 from the State General Fund for operating expenditures of the Division of Vehicles of the Department of Revenue and State Highway Patrol. Although there are provisions in these sections to lapse the appropriations and nullify the transfer if no school finance bill is passed, I veto these sections as a technical matter by removing unneeded language.

KATHLEEN SEBELIUS, *Governor*

May 21, 2004

Members were given the opportunity to reconsider the line item veto. There having been no motion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

ACTION OF VETO MESSAGES

The message from the House having been received announcing the House of Representatives has reconsidered a line item veto by the Governor in section 25(a) of **S Sub for HB 2471** and determined that such line item pass notwithstanding the Governor's veto, the time has arrived for reconsideration.

Senator Umbarger moved the Senate reconsider the line item veto in Section 25(a) of **HB 2471** which reads as follows:

Section 25(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2005, the following:

Pregnancy maintenance initiative..... \$300,000

On roll call, the vote was: Yeas 23, Nays 13, Present and Passing 0, Absent or Not Voting 4.

Yeas: Barnett, Barone, Brownlee, Bunten, Clark, Corbin, Emler, Gilstrap, Huelskamp, Jackson, Jordan, Journey, Lee, Morris, O'Connor, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Wagle.

Nays: Adkins, Betts, Brungardt, Buhler, Downey, Goodwin, Haley, Helgerson, Hensley, Kerr, Oleen, Steineger, Vratil.

Absent or Not Voting: Allen, Donovan, Lyon, Pugh.

Upon the showing of five hands, a call of the Senate was requested.

Senator Vratil moved the call of the Senate be lifted. The motion failed.

Citing Senate Rule 39, Senator Oleen moved to dispense with further proceedings.

On roll call, the vote was: Yeas 17, Nays 17, Present and Passing 1, Absent or Not Voting 5.

Yeas: Adkins, Betts, Brungardt, Buhler, Bunten, Downey, Emler, Goodwin, Haley, Helgerson, Hensley, Kerr, Oleen, Schodorf, Steineger, Teichman, Vratil.

Nays: Barnett, Barone, Brownlee, Clark, Gilstrap, Huelskamp, Jackson, Jordan, Journey, Lee, Morris, O'Connor, Salmans, Taddiken, Tyson, Umbarger, Wagle.

Present and Passing: Schmidt.

Absent or Not Voting: Allen, Corbin, Donovan, Lyon, Pugh.

The motion failed.

After numerous requests that the call of the Senate be lifted, followed by motions to dispense with further proceedings, the call of the Senate was lifted.

A two-thirds constitutional majority not having voted in favor of overriding the Governor's line item veto, the motion did not prevail and the line item did not pass.

The Governor's line-item veto was sustained.

There being no further business to be considered, Senator Oleen moved, as provided in **SCR 1624**, the Senate adjourn sine die. The motion prevailed.

President Kerr thereupon announced: "By the virtue of the authority vested in me as President of the Senate, I now declare the 2004 session of the Kansas Senate adjourned sine die."

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

PAT SAVILLE, *Secretary of the Senate.*



MESSAGE FROM THE HOUSE

Announcing the House herewith transmits the veto message from the Governor on **House Bill No 2624**, An act concerning libraries; relating to the Topeka and Shawnee county library district; amending K.S.A. 12-1260 and 12-1267 and repealing the existing sections.

House Bill 2624: Auburn Library Bill

Pursuant to Article 2, § 14 of the Kansas Constitution, I veto **HB 2624**. **HB 2624** amends current law to allow the city of Auburn in Shawnee County, Kansas to withdraw from the countywide property tax that funds the Topeka and Shawnee County library district. The voters of Shawnee County made the decision years ago to have a combined city-county library, and voted for a tax increase for that purpose. Auburn residents will still be able to use the services of the Topeka and Shawnee County Library, but if they vote to separate themselves from the district library, they will no longer be providing any financial support. Enactment of this bill would set a precedent and could result in other local units of government opting out of already established library districts across the state. This would weaken the impact Kansas' library system which has been in place and served the people of Kansas well since.

KATHLEEN SEBELIUS, *Governor*

May 20, 2004

There being no motion to reconsider **House Bill 2624**, the Speaker of the House ruled the veto was sustained.

MESSAGE FROM THE HOUSE

Announcing a veto message from the Governor on **House Bill No. 2669**, An act authorizing certain state agencies to collect fees for services rendered; concerning the division of accounts and reports; relating to the write off of accounts receivable; setoff collection assistance fee; establishing the treasurer services reimbursement fund; amending K.S.A. 44-716a and K.S.A. 2003 Supp. 60-2310 and 75-6210 and repealing the existing sections; also repealing K.S.A. 75-37281, 75-3728c and 75-3728d and K.S.A. 2003 Supp. 75-3728b., was received on May 17, 2004 and read on May 27, 2004.

Veto Message on House Bill 2669: Treasurer's Office Funding

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto **House Bill 2669**. **House Bill 2669** codifies into law funding the State Treasurer's Office through "banking fees," fees charged on warrants issued by other state agencies. This funding mechanism was first implemented in the FY 2004 budget as a response to my request for the State Treasurer's Office to become a self-supporting agency. In my FY 2004 budget, I recommended a new plan to fund this office, one that would not place an unnecessary burden upon other state agencies. However, the State Treasurer rejected that plan. In the FY 2005 budget I signed last month, "banking fees" again fully fund the State Treasurer's office.

I believe the State Treasurer's Office should operate with funding that is not simply shifted from other state agencies, but generated from fees on services the Treasurer's Office delivers to the people of Kansas.

The veto of this legislation in no way jeopardizes the funding of the Treasurer's Office. Full funding of the State Treasurer's office is provided under the FY 2005 budget. This measure, however, does allow the State Treasurer's Office, the office of the Governor, and the legislature to further discuss how best to fund the Treasurer's Office.

KATHLEEN SEBELIUS, *Governor*

May 17, 2004

Members were given the opportunity to override the Governor's veto. There being no motion to reconsider **House Bill 2669**, the Speaker of the House ruled veto was sustained.

MESSAGE FROM THE HOUSE

Announcing a veto message from the Governor on **House Bill No. 2805**, An act concerning counties; relating to law enforcement, which was received on May 17, 2004 and read on May 27, 2004.

Veto Message from the Governor on House Bill 2805: Lincoln and Cloud County Law Enforcement

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto **House Bill 2805**. My office has received contradictory and inconsistent opinions regarding this bill and I feel a great deal of confusion exists concerning what HB 2805 is meant to accomplish. Furthermore, my office has been contacted by a number of statewide public safety organizations who are concerned about the effect this bill will have on the future of their employment, and most importantly the future of their retirement. For these reasons, I veto this bill and ask that the communities involved further review the effects of this legislation.

KATHLEEN SEBELIUS, *Governor*

May 17, 2004

Members were given the opportunity to override the Governor's veto. There being no motion to reconsider **House Bill 2805**, the Speaker of the House ruled veto was sustained.

MESSAGE FROM THE HOUSE

Announcing a veto message from the Governor on **House Bill No. 2880**, An act concerning the courts; amending K.S.A. 20-101, 20-162, 20-318, 20-320, 20-361, 20-3014 and 75-3122 and K.S.A. 2003 Supp. 20-158 and 20-319 and repealing the existing sections; also repealing K.S.A. 20-152, 20-153, 20-154, 20-161, 20-321, 20-322, 20-323 and 20-351a, which was received on May 17, 2004 and read on May 27, 2004.

Veto Message from the Governor on House Bill 2880: Supreme Court Budget

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto House Bill 2880. The current law concerning how the judicial branch is governed has been in place for nearly three decades. Although this law can be changed and improved over time, these changes should only take place after thorough consultation with members of the judicial branch, and particularly with members of the Supreme Court. Changes should reflect the judiciary's views that their own rules no longer serve the Court well. This consultation ensures that the judicial branch has the independence it requires to perform its unique function in our system of government.

Because **HB 2880** would make a fundamental change in how the Supreme Court governs the judicial branch, this consultation is especially important. Since **HB 2880** passed the Legislature, I have heard a wide array of views about the bill, from within the judicial branch and elsewhere. From these views, I am not convinced that there is consensus within the judicial branch or on the Supreme Court for this change. Therefore, since I believe we should change the internal workings of the Court only with great caution and after thorough consultation, I veto **HB 2880**.

I appreciate the work legislators put into this bill, and I want all parties to know that I have carefully considered their views. I am willing to entertain a change to this law. To that end, I call on the leaders of the judicial branch to consult more broadly with judges, lawyers and key leaders of the Legislature to reach consensus before the next legislative session to determine whether this sort of change is necessary, and, if so, what form it should take.

Members were given the opportunity to override the Governor's veto. There being no motion to reconsider **House Bill 2880**, the Speaker of the House ruled veto was sustained.

KATHLEEN SEBELIUS, *Governor*

May 17, 2004

MESSAGE FROM THE HOUSE

Announcing the following bills are here by transmitted to the Senate with final disposition:

Senate Bills that died in conference: **House Substitute for 2; SB 292, SB 394, SB 417, SB 463, SB 472; House Substitute for SB 536.**

Senate bills and concurrent resolutions that died in House Committees: **SB 13, SB 19, SB 22, SB 25, SB 32, SB 35, SB 38, SB 46, SB 47, SB 49, SB 51, SB 68, SB 94, SB 101,**

SB 111, SB 115, SB 117, SB 135 , SB 146, SB 161, SB 162; SB Substitute 170; SB 181, SB 187, SB 191 , SB 192; SB Substitute 209; SB 221 , SB 238 , SB 243, SB Substitute 244; SB 252, SB 253, SB 257, SB 259, SB Substitute 275 , SB 293, SB 298, SB 303, SB 305, SB 307, SB 310, SB 320, SB 325, SB 326, SB 330, SB 331, SB 348, Substitute SB 351; SB 354, SB 357, SB 359, SB 365, SB 367 , SB 368, SB 370, SB 372, SB 381, SB 385, SB 407, SB 410, SB 411, SB 413, SB 415, SB 423, SB 436, SB 442, SB 453, SB 459, SB 478, SB 481, SB 483, SB 502, SB 512; SB Substitute 515; SB 521, SB 527 , SB 533, SB 537, SB 538, SB 542, SB 546, SB 551 , SB 556, SB 558, SB 560, SB 561, SB 562, Senate Concurrent Resolution 1606.

MESSAGE FROM THE HOUSE

Announcing the House herewith transmits the veto message from the Governor on **House Bill No. 2774**. An act concerning townships, relating to annexation of township territory by cities; amending K.S.A. 12-520 and repealing the existing section, which was received on May 20, 2004 and read on May 27, 2004.

House Bill 2774: Annexation Bill

Pursuant to Article 2, §14 of the Constitution of the State of Kansas, I veto HB 2774. HB 2774 would significantly alter the annexation laws in Shawnee and Sedgwick counties by creating a new review board process to determine if a proposed annexation should be approved.

While I am very sympathetic to the issues and concerns of local citizens behind this particular piece of legislation, as a matter of policy, I believe that all cities and counties in the State of Kansas should follow the same rules, especially when it comes to annexation. It is a fundamental belief that I have held since my days as a member of the House of Representatives.

As was the case with 2003 HB 2212, which I also vetoed, HB 2774 is non-uniform in its application to cities and counties, and therefore, is subject to serious constitutional challenge. In my veto message of 2003 HB 2212, I indicated my belief that a challenge should be considered for the special annexation legislation passed for Shawnee County in 1987. The City of Topeka is currently litigating this issue. The outcome of this case should provide further legal direction concerning the constitutional limits imposed on the Kansas Legislature on the subject of annexation. The case is now in the early stages of litigation.

It is my sincere hope that the outcome of this case will provide the legal direction and guidance necessary to frame future annexation legislation that will clearly be able to pass constitutional muster, address the very important issues and concerns of local citizens at hand, and receive my signature.

KATHLEEN SEBELIUS
Governor

Dated: May 20, 2004

There being no motion to reconsider **House Bill 2774**, the Speaker of the House ruled the veto was sustained.