

# Journal of the House

SIXTY-THIRD DAY

---

HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Monday, April 30, 2007, 1:30 p.m.

The House met pursuant to adjournment with Speaker Neufeld in the chair.  
The roll was called with 122 members present.  
Reps. Aurand, George and O'Neal were excused on excused absence by the Speaker.  
Prayer by Rep. Sawyer:

Dear Almighty God,  
We thank you for this beautiful and glorious day that you have made, we rejoice and we are glad in it.

We are truly blessed to be able to work in this beautiful building entrusted with great responsibility and power. Dear Lord, please grant us the ability to use this power wisely.

Please help us to remember those who are powerless. Please help us to defend those who can't defend themselves.

Dear God, please help us to not forget those who are less fortunate than us. Please help us to show compassion and consideration to those who don't have the same access or possessions that we do, dear God, please help us to remember those who are invisible in our society.

Dear Lord, please help us to represent all of the people. Please help us to be fair, please help us to be just. Dear God, please grant us the wisdom and courage we need as we debate the issues on the House floor today. Please help us to be humble, and kind and considerate to each other. Please help us to not judge others just because they differ with us.

Dear God, give us the strength to remove the plank from our own eye rather than trying to remove the speck in our brothers' and sisters' eyes.

And finally dear God, please help us to do good work today and please help us to finish this session soon.

In your Great and Holy name we pray, Amen.

The Pledge of Allegiance was led by Rep. Rhoades.

## MESSAGE FROM THE SENATE

The Senate nonconcurs in House amendments to **H. Sub. for SB 21**, requests a conference and has appointed Senators Umbarger, Emler and Kelly as conferees on the part of the Senate.

The Senate nonconcurs in House amendments to **H. Sub. for SB 357**, requests a conference and has appointed Senators Umbarger, Emler and Kelly as conferees on the part of the Senate.

## INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **H. Sub. for SB 21**.

Speaker Neufeld thereupon appointed Reps. Schwartz, Tapanelli and Feuerborn as conferees on the part of the House.

On motion of Rep. Merrick, the House acceded to the request of the Senate for a conference on **H. Sub. for SB 357**.

Speaker Neufeld thereupon appointed Reps. Schwartz, Tafanelli and Feuerborn as conferees on the part of the House.

#### CONSIDERATION OF VETOED BILLS

The Governor's objection to **HB 2202** having been read April 25 (see HJ, page 1063), the time arrived for reconsideration of **HB 2202**, An act concerning alcoholic liquors; relating to farm wineries; amending K.S.A. 2006 Supp. 41-104, 41-308a, 41-311 and 41-2623 and repealing the existing sections.

There was no motion to reconsider. The Chair ruled the bill had been reconsidered and the veto sustained.

#### CONSIDERATION OF VETOED BILLS

The Governor's objection to **HB 2368** having been read April 25 (see HJ, page 1064), the time arrived for reconsideration of the line item Section 136 (I) of **HB 2368**, An act concerning certain claims against the state, making appropriations, authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain disbursements, procedures and acts incidental to the foregoing.

There was no motion to reconsider. The Chair ruled the line item had been reconsidered and the veto sustained.

On motion of Rep. Merrick, the House recessed until 4:30 p.m.

---

### LATE AFTERNOON SESSION

The House met pursuant to recess with Speaker Neufeld in the chair.

#### MESSAGE FROM THE SENATE

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

#### MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Mast, **HR 6025**, A resolution congratulating and commending Karla Finnell for her years of dedicated service to the people of Kansas as Executive Director of the Kansas Association for the Medically Underserved, was adopted.

Reps. Mast, Bethell and Ballard addressed a few remarks honoring Karla Finnell. Rep. Mast presented her with a copy of the resolution.

On motion of Rep. Merrick, the House recessed until 5:30 p.m.

---

### EARLY EVENING SESSION

The House met pursuant to recess with Speaker Neufeld in the chair.

#### MESSAGE FROM THE SENATE

Announcing passage of **HB 2599**.

The Senate adopts conference committee report on **Sub. for S. Sub. for HB 2237**.

#### INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

## HOUSE RESOLUTION No. 6026—

By Representatives McKinney, Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, Neufeld, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Powers, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley and Yoder

A RESOLUTION in memory of Justice Harold S. Herd.

WHEREAS, Justice Harold S. Herd died Monday, April 23, 2007, in his hometown of Coldwater at age 88; and

WHEREAS, Justice Herd, born June 3, 1918, in Comanche County, Kansas, was the second child of J.J. Herd and Bernice Shields Herd. He graduated from Protection High School in 1936 and attended Southwestern College in Winfield, Kansas for two years where he lettered in football, track and debate. He then went on to transfer to Washburn University to study law and again he lettered in football and track. Justice Herd received a B.A. in 1940 and a Doctor of Jurisprudence in 1942; and

WHEREAS, Justice Herd then joined the war effort, serving in the Pacific Theater as a naval officer aboard the USS Rio Grande and USS Cache. In 1946, he left the Navy as a Lieutenant and returned to his hometown of Coldwater where he maintained his private law practice until 1979; and

WHEREAS, Justice Herd believed passionately in public service and the role of citizenship in sustaining a healthy and just nation. During the 1950's, he served as mayor of Coldwater, Comanche County Attorney, and then Coldwater City Attorney. In 1964, he ran for and won election to the Kansas State Senate as a Democrat and was Senate Minority Leader from 1969-1973. In all of these elected positions, he worked tirelessly in support of public education and the protection of individuals and their liberties from undue influence from the wealthy and powerful; and

WHEREAS, A well respected and accomplished attorney, Justice Herd was appointed to the Kansas Supreme Court in 1979 by former Governor John Carlin. Justice Herd sat on the Supreme Court until 1993. He helped interpret the law on a wide range of issues, including water rights, oil and gas, women's rights and the separation of power to sustain the public good. After retiring from the Kansas Supreme Court, Justice Herd became a Distinguished Jurist in Residence at Washburn University School of Law where he taught constitutional history. Justice Herd retired from that position in 2002 and returned home to Coldwater; and

WHEREAS, Justice Herd was Past President of the Coldwater Lions Club, a member of Coldwater First Presbyterian Church, and a Master Mason, Masonic Lodge #295. He served on the Washburn Law School Board of Governors; the Kansas Committee for the Humanities; the University of Kansas Hall Center for the Humanities; Executive Council for the Kansas Bar, and President of the SW Kansas Bar Association. Justice Herd's honors include: Who's Who in America; Who's Who in American Law; Who's Who in American Bench and Bar; Fellow in the American and Kansas Bar Foundations; Distinguished Service Award by the Kansas Bar Association in 1991, the Washburn Law School Association in 1995, and special recognition from Kansas high school teachers for his constant efforts in helping students understand the U.S. Constitution; and

WHEREAS, Justice Herd is survived by his wife of 67 years, Midge Herd, six children, 13 grandchildren, 5 great-grandchildren, as well as 4 siblings: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we honor the life of Justice Harold S. Herd and the public service he gave to his community and state, and extend our deepest sympathy to his family and friends; and

*Be it further resolved:* That the Chief Clerk of the House of Representatives provide an enrolled copy of this resolution to Justice Herd's wife, Midge Herd.

#### CONFERENCE COMMITTEE REPORT

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

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

On page 1, by striking all following line 20;

By striking all on pages 2 through 17;

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

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

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

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

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

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

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

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

(A) The new construction of buildings;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) On January 1, 2008, or as soon thereafter as sufficient moneys are available, \$13,000,000 shall be transferred by the director of accounts and reports from the statewide

maintenance and disaster relief fund to the infrastructure maintenance fund established by section 4, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) The new construction of buildings;

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

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

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

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

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

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

(b) On or before January 14 of each year, the state board shall prepare a report on projects financed under the program during the preceding fiscal year. The report shall disclose the aggregate amount of bonds issued, the amount of bonds issued at the request of each

postsecondary educational institution and an overview of the projects financed by such bonds. The report shall include any other information deemed necessary by the state board. A copy of such report shall be submitted to the governor and the joint committee on state building construction.

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

New Sec. 11. Neither the state nor the state board shall have the power to pledge the full faith and credit or taxing power of the state of Kansas for such purposes and any payment by the state board for such purposes shall be subject to and dependent on appropriations by the legislature. Any obligation of the state board for payment of debt service on bonds and any such bonds issued for the purposes set forth in section 12, and amendments thereto, shall not be considered a debt or obligation of the state for the purpose of section 6 of article 11 of the constitution of the state of Kansas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



dation or endowment association of any such community college, technical college or postsecondary educational institution in a manner that complies with requirements specified in the federal internal revenue code of 1986, as amended, so that contributions qualify as charitable contributions allowable as deductions from federal adjusted gross income.

(b) (1) Upon receipt of any such contributions to a community college made pursuant to the provisions of this section, the treasurer of the community college shall deposit such contributions to the credit of the capital outlay fund of such community college established as provided by K.S.A. 71-501a, and amendments thereto. Expenditures from such fund shall be made for the purposes described in subsection (a) of K.S.A. 71-501, and amendments thereto, except that expenditures shall not be made from such fund for new construction or the acquisition of real property for use as building sites or for educational programs.

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

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

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

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

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

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

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

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

(e) Any taxpayer not subject to Kansas income, privilege or premiums tax who contributes to a community college, technical college or postsecondary educational institution, herein-after designated the transferor, may sell, assign, convey or otherwise transfer tax credits allowed and earned pursuant to this section. The sale price of a tax credit shall be at least

50% of the full value of the credit. Such credit shall be deemed to be allowed and earned by any such taxpayer which is only disqualified therefrom by reason of not being subject to such Kansas taxes. The taxpayer acquiring earned credits, hereinafter designated the transferee, may use the amount of the acquired credits to offset up to 100% of the taxpayer's income, privilege or premiums tax liability for the taxable year in which such acquisition was made. Such credits may be sold or transferred only one time and, if sold or transferred, shall be transferred in the tax year such credit is earned or the two successive tax years. A transferred credit shall be claimed in the year purchased. The transferor shall enter into a written agreement with the transferee establishing the terms and conditions of the sale or transfer and shall perfect such transfer by notifying the secretary of revenue in writing within 30 calendar days following the effective date of the transfer, subject to the review and approval or denial of such transfer by the secretary of revenue. The transferor and transferee shall provide any information pertaining to the sale or transfer as may be required by the secretary of revenue to administer and carry out the provisions of this section. The amount received by the transferor of such tax credit shall be taxable as income of the transferor, and the excess of the value of such credit over the amount paid by the transferee for such credit shall be taxable as income of the transferee.

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

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

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

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

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

- (1) The average daily balance of moneys in the general fees fund of the state educational institution for the preceding month; and
- (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

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

- (1) The average daily balance of moneys in the restricted fees fund of the state educational institution for the preceding month; and
- (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

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

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

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

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

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

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

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

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

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

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

Sec. 20.

#### STATE BOARD OF REGENTS

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

##### Infrastructure maintenance fund

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

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

By renumbering the remaining section;

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

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

DWAYNE UMBARGER

JAY SCOTT EMLER

LAURA KELLY

*Conferees on part of Senate*

SHARON SCHWARTZ

LEE TAFANELLI

BILL FEUERBORN

*Conferees on part of House*

On motion of Rep. Schwartz, the conference committee report on **Sub. for S. Sub. for HB 2237** was adopted.

On roll call, the vote was: Yeas 102; Nays 20; Present but not voting: 0; Absent or not voting: 3.

Yeas: Ballard, Bethell, Bowers, Brunk, Burgess, Carlin, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Faust-Goudeau, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelsey, King, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, McCray-Miller, McKinney, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Moxley, Myers, Neighbor, Neufeld, Olson, Otto, Owens, Palmer, Patton, Pauls, Phelps, Pottorff, Powell, Proehl, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Sharp, Shultz, Siegfried, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Beamer, Brown, Burroughs, Carlson, Dillmore, Donohoe, Faber, Feuerborn, Henderson, Hodge, Kelley, Kiegerl, Kinzer, Masterson, Judy Morrison, Peck, Peterson, Powers, Sloan, Wetta.

Present but not voting: None.

Absent or not voting: Aurand, George, O'Neal.

#### EXPLANATION OF VOTE

MR. SPEAKER: We vote yes on **Sub. for S. Sub. for HB 2237**. While it only provides 14% of the \$663 million in deferred maintenance dollars that are needed, it is an important down payment on this critical problem. This package obviously falls short of the kind of comprehensive solution needed on the backlog of university projects. But it is a down payment and that is a step forward.—TERRI HUNTINGTON, RONNIE METSKER, DON HILL, STEPHANIE SHARP, PAT COLLOTON, TOM MOXLEY, RICHARD J. PROEHL, BILL LIGHT, BARBARA CRAFT, SHERYL SPALDING, KAY WOLF, RON WORLEY

#### REPORT ON ENGROSSED BILLS

**HB 2004; S. Sub. for HB 2145; S. Sub. for Sub. HB 2457; S. Sub. for HB 2556** reported correctly engrossed April 28, 2007.

**HB 2140, HB 2363** reported correctly re-engrossed April 28, 2007.

Also, **HB 2113, HB 2128, HB 2360; S. Sub. for HB 2451** reported correctly engrossed April 30, 2007.

**Sub. HB 2310** reported correctly re-engrossed April 30, 2007.

#### REPORT ON ENROLLED BILLS

**HB 2062, HB 2144, HB 2185, HB 2267, HB 2393** reported correctly enrolled, properly signed and presented to the governor on April 30, 2007.

#### REPORT ON ENROLLED RESOLUTIONS

**HR 6025** reported correctly enrolled and properly signed on April 30, 2007.

On motion of Rep. Merrick, the House adjourned until 1:30 p.m., Tuesday, May 1, 2007.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

