SESSION OF 2007

CONFERENCE COMMITTEE REPORT BRIEF SUBSTITUTE FOR SENATE SUBSTITUTE FOR HOUSE BILL NO. 2237

As Agreed to April 30, 2007

Brief*

Substitute for Senate Substitute for HB 2237 would create the State Educational Institution Long-Term Infrastructure Maintenance Program. Infrastructure improvement projects would not include new construction of buildings, maintenance of athletic facilities that do not directly support the delivery of academic pursuits, or maintenance of the residences of the President or Chancellor. The projects could include not only utility systems, but other infrastructure projects as well. The program would include:

- **Ongoing Transfer of Funds for Deferred Maintenance.** Beginning in FY 2008, the state will make annual transfers to the Board of Regents to fund deferred maintenance projects at the state universities. The transfers will total $90.0 million, including $47.0 million from the State General Fund as follows:
    - FY 2008 - $30.0 million from the Statewide Maintenance and Disaster Relief Fund.
    - FY 2009 - $20.0 million - $13.0 million from the Statewide Maintenance and Disaster Relief Fund and $7.0 million from the State General Fund.

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- FY 2010 - $15.0 million, all from the State General Fund.

- FY 2011 - $15.0 million, all from the State General Fund.

- FY 2012 - $10.0 million, all from the State General Fund.

- **Retained Interest.** The interest dollars generated from student tuition payments, restricted fee payments, and sponsored research overhead dollars (approximately $8.5 million annually) will be allocated for state university building maintenance.

- **Tax Credits.** The bill further would authorize new tax credits effective for tax years 2008-2012 for contributions earmarked for deferred maintenance at post-secondary educational institutions; certain capital improvements at community colleges (excluding new construction and real property acquisition); and deferred maintenance and certain technology or equipment at technical colleges. The credits would sunset after tax year 2012.

  The amount of the credits, which would could be claimed against the income tax, financial institutions privilege tax, or insurance premiums tax, would be equivalent to 50 percent of qualifying contributions for post-secondary institutions; and 60 percent of qualifying contributions for community and technical colleges. The post-secondary credits would be non-refundable but could be carried forward for up to thee years. The community and technical college credits would be refundable. All credits would be transferrable to other taxpayers if originally claimed by not-for-profit entities. The credit process would be developed and implemented for all institutions in a manner designed to assure that qualifying contributions also would qualify for federal and state income tax deductions.

Additional language would limit the amount of tax credits authorized in FY 2009 for each community and technical college to $0.078 million for tax year 2008 contributions; to $0.156 million beginning in FY 2010 relative to contributions for tax year 2009; and to $0.208 million from FY 2011 through FY 2013 relative to tax year 2010-2012 contributions. An overall maximum credit limitation would be imposed for community and technical colleges of $1.875 million for FY 2009; $3.750 million for FY 2010; and $5.0 million for FY 2011-2013.

An overall maximum credit limitation would be imposed for the post-secondary institution contributions of $5.625 million for FY 2009; $11.250 million for FY 2010; and $15.0 million for FY 2011-2013. One provision would limit to a maximum of 40 percent of a given year's annual credits the portion that could be applied to any single post-secondary institution, unless there would be unanimous agreement among all eligible institutions to waive that restriction.

In addition to the aforementioned allocation restrictions and requirements, prior to the issuance of any tax credits, the State Board of Regents would be required to establish an allocation procedure developed in consultation with the Secretary of Revenue (and, for the post-secondary institutions, university foundations or endowment associations) regarding the allocation of credits between and among all affected institutions within a given fiscal year. "Community college" would be defined to include those colleges established under the provisions of the Community College Act. "Technical college" would be defined to include those institutions otherwise defined in KSA 72-4472 *et seq*. "Post-secondary educational institution" would be defined to include 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.

The Secretary of Revenue would be required to submit an annual report to the Legislature evaluating the overall tax credit utilization and the amount utilized by each institution.

Based on the assumption that contributions would be received to fully utilize the maximum amount of tax credits, the fiscal impact of the credits to the SGF would be as follows:

($ in millions)

	Total	State	CC/Tech
FY 2008	$0.000	$0.000	$0.000
FY 2009	($7.500)	($5.625)	($1.875)
FY 2010	($15.000)	($11.250)	($3.750)
FY 2011	($20.000)	($15.000)	($5.000)
FY 2012	($20.000)	($15.000)	($5.000)
FY 2013	($20.000)	($15.000)	($5.000)
Through FY 2013	($82.500)	($61.875)	($20.625)

Such credits also would be expected to generate the following amount of contributions:

($ in millions)

	Total	State	CC/Tech
FY 2008	$0.000	$0.000	$0.000
FY 2009	$14.375	$11.250	$3.125
FY 2010	$28.750	$22.500	$6.250
FY 2011	$38.333	$30.000	$8.333
FY 2012	$38.333	$30.000	$8.333
FY 2013	$38.333	$30.000	$8.333
Through FY 2013	$158.125	$123.750	$34.375

- **Bonds.** The bill would authorize $100.0 million in bonds ($20.0 million each fiscal year) beginning in FY 2008, to be requested by the Board of Regents from the Kansas Development Finance Authority (KDFA) for Washburn University, the community colleges, and technical colleges. The principal and interest for the bonds would be paid from the State General Fund, with the institutions reimbursing the State General Fund for the principal portion of the payments each year. The bonds would be let as 8-year bonds, with a cap of $15.0 million in bonds per institution over the five-year period. Bond payments would begin after July 1, 2008.

  Before requesting the bonds from KDFA, the Board of Regents would be required to review the requests to determine both need and capacity of the institution to repay the bonds. The capacity to repay the bonds would be further reviewed by the KDFA.

  The Board of Regents would be required to provide an annual report to the Legislature regarding the distribution of the bonds.

- **Limitation on Expenditure of New Funding.** New funds could not be spent before the Joint Committee on State Building Construction reviews projects at the state universities. Washburn University, the community colleges and technical colleges would be exempt from this review.

  Private funds leveraged with the tax credits could not be used for bond payments for any bonds other than those authorized in this bill.

  The funds would be distributed based on the current Regents methodology - using square footage, age, and complexity of the building.

- **New Building Accountability.** The Board of Regents will not request State General Fund funding for the maintenance of new privately-financed buildings.

- **Retirement of Unnecessary Facilities.** The Board of Regents would be required to take obsolete and unnecessary facilities out of service. Facilities could be "moth-balled" or razed.

- **Project Oversight and Annual Reporting Requirements.** In FY 2008, the Joint Committee on State Building Construction would advise and consult with the Board of Regents on all state university deferred maintenance projects in FY 2008.

  In addition, the Joint Committee on State Building Construction would be required to develop a long-term management and oversight plan for the Regents deferred maintenance projects to be presented to the 2008 Legislature.

  The Board of Regents would be required to submit to the Joint Committee on State Building Construction, the Senate Ways and Means Committee, the House Appropriations Committee, and the Governor the following reports:

  - Quarterly progress reports on infrastructure improvement projects financed under the program, which would be made available in electronic format;

  - A bi-annual "Inventory of Physical Facilities and Space Utilization" (provides such things as the age and condition of buildings, building space utilization, and building replacement costs) would be made available in electronic format; and

  - A bi-annual "Report on State University Deferred and Annual Maintenance" (a comprehensive facilities audit that provides a detailed overview of deferred maintenance needs of all state-owned buildings on state university campuses) would be made available in electronic format.

- **Improved Project Efficiency.** For maintenance projects, an "Authority Having Jurisdiction" (AHJ) is needed to interpret, approve, and authorize deviations or exceptions as required to applicable building codes. Presently, both the Division of Facilities Management (DFM) and the State Fire Marshal contend that they serve in that role, and neither entity will relinquish control to the other. This duplication of effort causes unnecessary delays and confusion. The Board of Regents would be granted the option of working exclusively with DFM as it has licensed professionals, use codes standards that are common to design professionals, and other similar advantages. Previously approved legislation allows the state universities to opt out of full services from the Department of Administration. Instead of a flat 1 percent fee charged by DFM, most projects are now closer to the 0.5 percent range. This continued practice ultimately will result in cost savings. In order to facilitate efficient and timely project reviews, "on-call" fire protection consultants may be retained to augment DFM staff during busy periods rather than adding permanent full-time staff to DFM or the Fire Marshal's office. DFM would delegate authority to these consultants.