

Journal of the Senate

SIXTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, May 10, 2011, 10:00 a.m.

The Senate was called to order by President Stephen Morris.

The roll was called with thirty-nine Senators present.

Senator Donovan was excused.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Reports are coming in
From the districts in the West:
Rain is badly needed;
We have an urgent request.

Dear Lord, we are aware
That prayer changes things,
So we are praying that our prayers
A lot of rain will bring.

The dry soil is discouraging,
So if it be your will,
Send us steady downpours
So our prayers will be fulfilled.

Along with the rain we need a solution
To all the barriers that we face.
And hopefully we can wrap it up,
And depart this place.

I pray in the Name of Jesus Christ, AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators McGinn, Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Lee, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1863—

A RESOLUTION congratulating and commending the Wichita State University Shocker Men's Basketball Team for winning the 2011 National Invitation Tournament.

WHEREAS, The Wichita State University (WSU) Shockers won the 2011 Men's National Invitation Tournament (NIT) Championship on March 31, 2011, in New York City; and

WHEREAS, Wichita State advanced to the NIT Championship with five straight wins in the tournament, beating the University of Nebraska, Virginia Tech University, College of Charleston, Washington State University and finally the University of Alabama in the championship game; and

WHEREAS, Graham Hatch was named the NIT Most Outstanding Player and a member of the All-Tournament Team while Garrett Stutz also was named to the All-Tournament Team; and

WHEREAS, Wichita State and Head Coach Gregg Marshall were not only successful on the court but in the classroom as well, with Graham Hatch and Garrett Stutz both named to the 2011 Missouri Valley Conference (MVC) Scholar-Athlete first-team and honorable mention-team, respectively; and

WHEREAS, Wichita State tied the 1982-1983 WSU team for Missouri Valley Conference road wins as that team was also 8-1 on the road in the MVC; and

WHEREAS, Wichita State set a school record with 29 victories in a season; and

WHEREAS, J.T. Durley became WSU's 42nd First Team All-Missouri Valley Conference selection and was third in Player of the Year voting; junior guard Toure' Murry was named to the second-team and Ben Smith was named recipient of the "Sixth Man Award"; Smith and junior center Garrett Stutz both received Missouri Valley Conference All-Bench Team recognition; while junior guard David Kyles was named to the Missouri Valley Conference Most-Improved Team; and

WHEREAS, Wichita State was chosen the Missouri Valley Conference Army National Guard Defensive Team of the Year; and

WHEREAS, J.T. Durley and Toure' Murry became the 39th and 40th Shockers to reach 1,000 points for their careers in 2011; and

WHEREAS, Nine Wichita State men's basketball players were named to the Fall 2010 WSU Athletic Director's honor roll: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate the Wichita State University Shockers, Head Coach Gregg Marshall, Athletic Director Eric Sexton and WSU President Don Beggs on a successful Shocker men's basketball program, and do hereby congratulate each member of the team on behalf of the citizens of Kansas for an exemplary season: Gabe Blair, Derek Brown, J.T. Durley, Aaron Ellis, Jerome Hamilton, Graham Hatch, Trey Jones, David Kyles, Toure' Murry, Ehimen Orukpe, Joe Ragland, Tyler Richardson, Ben Smith, Garrett Stutz, Randall Vautravers, Josh Walker and Demetric Williams; and

Be it further resolved: That the Secretary of the Senate shall send 25 enrolled copies of this resolution to Senator Carolyn McGinn.

On emergency motion of Senator McGinn **SR 1863** was adopted unanimously.

Senator McGinn congratulated and commended the Wichita State University Men's Basketball Team for winning the 2011 National Invitation Tournament. The Wichita State University men's basketball team were introduced as follows: Gabe Blair, Derek

Brown, J.T. Durley, Aaron Ellis, Jerome Hamilton, Graham Hatch, Trey Jones, David Kyles, Toure Murry, Ehimen Orukpe, Joe Ragland, Tyler Richardson, Ben Smith, Garrett Stutz, Randall Vautravers, Josh Walker, Demetric William. Also in attendance were Head Coach Gregg Marshall, Athletic Director Eric Sexton and Assistant Coach Devon Smith. The Senate acknowledged their achievement with a standing ovation.

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

SENATE RESOLUTION No. 1864—

A RESOLUTION congratulating Team Kansas from the Olathe Culinary Arts Program.

WHEREAS, Team Kansas from the Olathe Culinary Arts Program competed Sunday, May 1, 2011, in the Tenth Annual National ProStart Invitational culinary competition in Overland Park, Kansas; and

WHEREAS, The invitational is sponsored by the National Restaurant Association Educational Foundation and drew teams from 40 states and territories for a weekend of culinary and restaurant management competition. The invitational is designed to encourage and inspire the next generation of restaurant industry leaders; and

WHEREAS, About 90,000 United States high school students at 1,700 schools participate in the two-year ProStart program. Culinary schools around the country offered \$180,000 in scholarships to Olathe Culinary Arts Program students who won the national culinary award at last year's invitational; and

WHEREAS, Team Kansas placed second in this year's competition, behind a team from California. In each of the last three years, Team Kansas from the Olathe Culinary Arts Program has placed either first or second in the nation and has the only high school program in the nation that has had so much success placing in the top two for three consecutive years. Prior to this year's national competition, Team Kansas placed first in the state competition on March 1 and 2, 2011 in Wichita, Kansas; and

WHEREAS, Every day since January 8, 2011, excluding weekends, spring break and snow days, Team Kansas from the Olathe Culinary Arts Program has practiced preparing the same meal it showcased the weekend of the invitational; and

WHEREAS, Team Kansas, in only the one hour allowed during the invitational competition, prepared a three-course meal with only butane burners for heat sources; and

WHEREAS, The three-course meal was carefully and meticulously prepared by Team Kansas. The first course included a butter poached lobster tail atop a citrus macerated slaw in citrus vinaigrette, garnished with a Parmesan crescent and a nest of micro greens. The second course included pan-roasted, sunflower-seed encrusted pork tenderloin with a parsnip purée, Tourne potatoes, Bouquetiere of Chateau zucchini and baby carrots served with a tomato, spinach relish and a classic demi-glace. The third course concluded with a white chocolate coconut Bavarian atop a dark chocolate raspberry Bavarian garnished with a cocoa nib brittle, chocolate crescent, raspberry coulis and coconut coulis; and

WHEREAS, Team Kansas consists of Erica Tatham, Team Lead, Olathe South High School; Elizabeth Huston, Olathe Northwest High School; Matt McIntyre, Olathe Northwest High School; Kylie Michaels, Olathe North High School; Brandon Ramirez, Olathe East High School; and Chef Mike Chrostowski, Coach and Faculty Advisor; and

WHEREAS, According to Chef Mike Chrostowski, Team Kansas' Coach, it has

"been a pleasure to watch these young men and women display their creativity and passion for the [culinary] competition. They all have risen to the occasion and as their instructor could not be more pleased with all that they have accomplished.": Now, Therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Team Kansas from the Olathe Culinary Arts Program for their great successes and achievements; and

Be it further resolved: That the Secretary of the Senate shall send 10 enrolled copies of this resolution to Senator Lynn.

On emergency motion of Senator Lynn **SR 1864** was adopted unanimously.

Senators Haley and Faust-Goudeau introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1865—

A RESOLUTION recognizing the observance of an annual Juneteenth Day.

WHEREAS, The Kansas Senate acknowledged its support for Juneteenth Day in 2007; and

WHEREAS, June 19th, the oldest known celebration of the ending of slavery, is known in many places as "Juneteenth Day"; and

WHEREAS, News of the end of slavery did not reach frontier areas of the United States for more than 2 years after President Lincoln's Emancipation Proclamation of January 1, 1863, and months after the conclusion of the Civil War; and

WHEREAS, On June 19th, 1865, Union soldiers led by Major General Gordon Granger arrived in Galveston, Texas, with news that the Civil War had ended and that the enslaved were free; and

WHEREAS, News of the end of slavery did not have the same impact on Kansas because Kansas was established as and remained a "free" state; and

WHEREAS, Many African-Americans continue the tradition of celebrating Juneteenth as inspiration and encouragement for future generations, and for more than 140 years, Juneteenth Day celebrations have been held to honor African-American freedom while encouraging self-development and respect for all cultures; and

WHEREAS, Although Juneteenth Day is beginning to be recognized as a national, and even global event, the history behind the celebration should not be forgotten; and

WHEREAS, The faith and strength of character demonstrated by former slaves remains an example for all people of the United States, regardless of background, religion or race: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize the historical significance of Juneteenth; support the continued celebration of Juneteenth to provide an opportunity for the people of the State of Kansas to learn more about the past to better understand the experiences that have shaped the nation and encourage the people of the State of Kansas to observe Juneteenth Day with appropriate ceremonies, activities and programs; and

Be it further resolved: That the Secretary of the Senate shall send enrolled copies of this resolution to Senators Haley and Faust-Goudeau.

On emergency motion of Senator Haley **SR 1865** was adopted unanimously.

REPORT ON ENGROSSED BILLS

SB 50 reported correctly engrossed May 10, 2011.

REPORT ON ENROLLED BILLS

SR 1859, SR 1860, SR 1861, SR 1862 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on May 10, 2011.

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

AFTERNOON SESSION

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

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **Senate Substitute for HB 2194**.

The House adopts the Conference Committee report on **SB 61**.

The House adopts the Conference Committee report on **House Substitute for SB 196**.

The House adopts the Conference Committee report on **HB 2071**.

The House adopts the Conference Committee report on **HB 2191**.

ORIGINAL MOTION

Senator Emler moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 61; H Sub for SB 63; SB 143; H Sub for SB 196; SB 248; HB 2336**.

ORIGINAL MOTION

Having voted on the prevailing side, Senator Owens moved the Senate reconsider its action on **H Sub for SB 37**. The motion carried and the Senate returned to consideration of the Conference Committee Report.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 37** submits the following report:

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

On page 9, following line 28, by inserting the following:

"(A) Upon a first conviction, a severity level 6, person felony;"

And by redesignating subparagraphs accordingly;

Also on page 9, in line 30, by striking "first or";

On page 19, in line 1, following "offender," by inserting "including a violent offender or drug offender who is also a sex offender,,"; in line 5, following "offender," by inserting "report in person four times each year to the registering law enforcement agency in the county or location of jurisdiction in which the offender resides, maintains employment or is attending a school, except that,,"; by striking all in lines 6 through 11;

in line 12, by striking "incapacitated" and inserting "one of the four required reports may be conducted by certified letter"; also in line 12, following "sent" by inserting "by the registering law enforcement agency"; in line 14, following "respond" by inserting "by returning the letter"; also in line 14, by striking "with" and inserting "within 10 days, by certified mail, indicating"; in line 15, by striking "within 10 days";

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

PAT COLLOTON

MELODY McCRAY-MILLER

Conferees on part of House

THOMAS C. OWENS

JEFF KING

DAVID HALEY

Conferees on part of Senate

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Brungardt.

Absent or Not Voting: Donovan.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 61** submits the following report:

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

On page 1, by striking all in lines 28 through 36;

By striking all on pages 2 through 5;

On page 6, by striking all in lines 1 through 10, and inserting the following:

"Sec. 2. K.S.A. 2010 Supp. 79-3234 is hereby amended to read as follows: 79-3234. (a) All reports and returns required by this act shall be preserved for three years and thereafter until the director orders them to be destroyed.

(b) Except in accordance with proper judicial order, or as provided in subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106, K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer, employee or former employee of the department of revenue or any other state officer or employee or former state officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information required under this act; and it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer or employee engaged in the administration of this act to engage in the business or profession of tax accounting or to accept employment,

with or without consideration, from any person, firm or corporation for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the state of Kansas, by any other state or by the United States government, or to accept any employment for the purpose of advising, preparing material or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the state of Kansas, any other state or by the United States government.

(c) The secretary or the secretary's designee may: (1) Publish statistics, so classified as to prevent the identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or other legal representatives of the state;

(3) provide the post auditor access to all income tax reports or returns in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto;

(4) disclose taxpayer information from income tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;

(5) disclose to the secretary of commerce the following: (A) Specific taxpayer information related to financial information previously submitted by the taxpayer to the secretary of commerce concerning or relevant to any income tax credits, for purposes of verification of such information or evaluating the effectiveness of any tax credit or economic incentive program administered by the secretary of commerce; (B) the amount of payroll withholding taxes an employer is retaining pursuant to K.S.A. 2010 Supp. 74-50,212, and amendments thereto; (C) information received from businesses completing the form required by K.S.A. 2010 Supp. 74-50,217, and amendments thereto; and (D) findings related to a compliance audit conducted by the department of revenue upon the request of the secretary of commerce pursuant to K.S.A. 2010 Supp. 74-50,215, and amendments thereto;

(6) disclose income tax returns to the state gaming agency to be used solely for the purpose of determining qualifications of licensees of and applicants for licensure in tribal gaming. Any information received by the state gaming agency shall be confidential and shall not be disclosed except to the executive director, employees of the state gaming agency and members and employees of the tribal gaming commission;

(7) disclose the taxpayer's name, last known address and residency status to the department of wildlife and parks to be used solely in its license fraud investigations;

(8) disclose the name, residence address, employer or Kansas adjusted gross income of a taxpayer who may have a duty of support in a title IV-D case to the secretary of the Kansas department of social and rehabilitation services for use solely in administrative or judicial proceedings to establish, modify or enforce such support obligation in a title IV-D case. In addition to any other limits on use, such use shall be allowed only where subject to a protective order which prohibits disclosure outside of the title IV-D proceeding. As used in this section, "title IV-D case" means a case being administered pursuant to part D of title IV of the federal social security act (42 U.S.C. § 651 et seq.), and amendments thereto. Any person receiving any information under the provisions of this subsection shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e);

(9) permit the commissioner of internal revenue of the United States, or the proper official of any state imposing an income tax, or the authorized representative of either, to inspect the income tax returns made under this act and the secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal government, or their authorized representatives, information contained in income tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the income tax laws, as the secretary may consider proper, but such information shall not be used for any other purpose than that of the administration of tax laws of such state, the state of Kansas or of the United States;

(10) communicate to the executive director of the Kansas lottery information as to whether a person, partnership or corporation is current in the filing of all applicable tax returns and in the payment of all taxes, interest and penalties to the state of Kansas, excluding items under formal appeal, for the purpose of determining whether such person, partnership or corporation is eligible to be selected as a lottery retailer;

(11) communicate to the executive director of the Kansas racing commission as to whether a person, partnership or corporation has failed to meet any tax obligation to the state of Kansas for the purpose of determining whether such person, partnership or corporation is eligible for a facility owner license or facility manager license pursuant to the Kansas parimutuel racing act;

(12) provide such information to the executive director of the Kansas public employees retirement system for the purpose of determining that certain individuals' reported compensation is in compliance with the Kansas public employees retirement act at K.S.A. 74-4901 et seq., and amendments thereto; ~~and~~

(13) provide taxpayer information of persons suspected of violating K.S.A. 2010 Supp. 44-766, and amendments thereto, to the staff attorneys of the department of labor for the purpose of determining compliance by any person with the provisions of K.S.A. 2010 Supp. 44-766, and amendments thereto, which information shall be limited to withholding tax and payroll information, the identity of any person that has been or is currently being audited or investigated in connection with the administration and enforcement of the withholding and declaration of estimated tax act, K.S.A. 79-3294 et seq., ~~as amended and amendments thereto~~, and the results or status of such audit or investigation; *and*

(14) provide such information to the state treasurer for the sole purpose of carrying out the provisions of K.S.A. 58-3934, and amendments thereto. Such information shall be limited to current and prior addresses of taxpayers or associated persons who may have knowledge as to the location of an owner of unclaimed property. For the purposes of this paragraph, "associated persons" includes spouses or dependents listed on income tax returns.

(d) Any person receiving information under the provisions of subsection (c) shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e).

(e) Any violation of subsection (b) or (c) is a class A nonperson misdemeanor and, if the offender is an officer or employee of the state, such officer or employee shall be dismissed from office.

(f) Nothing in this section shall be construed to allow disclosure of the amount of income or any particulars set forth or disclosed in any report, return, federal return or

federal return information, where such disclosure is prohibited by the federal internal revenue code as in effect on September 1, 1996, and amendments thereto, related federal internal revenue rules or regulations, or other federal law.

Sec. 3. K.S.A. 2010 Supp. 74-50,208 and 79-3234 are hereby repealed.";

And by renumbering section 5 as section 4;

Also on page 6, in line 12, by striking "statute book" and inserting "Kansas register";

On page 1, in the title, in line 1, by striking "income"; also in line 1, by striking "credits; "and inserting "income tax credits,"; in line 2, by striking all after the semicolon; in line 3, by striking all before "amending" and inserting "tax information, disclosure to state treasurer in certain circumstances, unclaimed property,"; by striking all in line 4, and inserting "K.S.A. 2010 Supp. 74-50,208 and 79-3234";

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

RICHARD CARLSON

MARVIN G. KLEEB

NILE DILLMORE

Conferees on part of House

PAT APPLE

JEFF KING

G. THOMAS HOLLAND II

Conferees on part of Senate

Senator Apple moved the Senate adopt the Conference Committee Report on **SB 61**.

On roll call, the vote was: Yeas 37, Nays 2, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Francisco, King.

Absent or Not Voting: Donovan.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 63** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed as House Substitute for Senate Bill No. 63, as follows:

On page 1, by striking all in lines 8 through 35;

By striking all on page 2;

On page 3, by striking all in lines 1 through 12; following line 12 by inserting:

"New Section 1. The following provisions apply, in the circumstances set out, to disclosure of a communication or information covered by the attorney-client privilege or work-product protection.

(a) *Disclosure made in a court or agency proceeding; scope of waiver.* When the disclosure is made in a court or agency proceeding and waives the attorney-client

privilege or work-product protection, the waiver extends to an undisclosed communication or information in any proceeding only if:

- (1) The waiver is intentional;
- (2) the disclosed and undisclosed communications or information concern the same subject matter; and
- (3) they ought in fairness be considered together.

(b) *Inadvertent disclosure.* When made in a court or agency proceeding, the disclosure does not operate as a waiver in any proceeding if:

- (1) The disclosure is inadvertent;
- (2) the holder of the privilege or protection took reasonable steps to prevent disclosure; and
- (3) the holder promptly took reasonable steps to rectify the error, including, if applicable, following subsection (b)(7)(B) of K.S.A. 60-226, and amendments thereto.

(c) *Disclosure made in a non-Kansas proceeding.* When the disclosure is made in a non-Kansas proceeding and is not the subject of a court order concerning waiver, the disclosure does not operate as a waiver in a Kansas proceeding if the disclosure:

- (1) Would not be a waiver under this section if it had been made in a Kansas proceeding; or
- (2) is not a waiver under the law of the jurisdiction where the disclosure occurred.

(d) *Controlling effect of a court order.* A court may order that the privilege or protection is not waived by disclosure connected with the litigation pending before the court, in which event the disclosure is also not a waiver in any other proceeding.

(e) *Controlling effect of a party agreement.* An agreement on the effect of disclosure in a proceeding is binding only on the parties to the agreement, unless it is incorporated into a court order.

(f) *Definitions.* As used in this section:

- (1) "Attorney-client privilege" means the protection that applicable law provides for confidential attorney-client communications.
- (2) "Work-product protection" means the protection that applicable law provides for tangible material, or its intangible equivalent, prepared in anticipation of litigation or for trial.

Sec. 2. K.S.A. 60-426 is hereby amended to read as follows: 60-426. (a) *General rule.* Subject to K.S.A. 60-437, and amendments thereto, and except as otherwise provided by subsection (b), ~~of this section~~ communications found by the judge to have been between ~~lawyer an attorney~~ and ~~his or her~~ *such attorney's* client in the course of that relationship and in professional confidence, are privileged, and a client has a privilege: (1) If ~~he or she~~ *such client* is the witness, to refuse to disclose any such communication; ~~and;~~ (2) to prevent ~~his or her lawyer~~ *such client's attorney* from disclosing it; and (3) to prevent any other witness from disclosing such communication if it came to the knowledge of such witness (i) in the course of its transmittal between the client and the ~~lawyer attorney~~, or (ii) in a manner not reasonably to be anticipated by the client; or (iii) as a result of a breach of the ~~lawyer-client~~ *attorney-client* relationship. The privilege may be claimed by the client in person or by ~~his or her lawyer~~ *such client's attorney*, or if an incapacitated person, by either ~~his or her~~ *such person's* guardian or conservator, or if deceased, by ~~his or her~~ *such person's* personal representative.

(b) *Exceptions.* Such privileges shall not extend to a communication: (1) ~~to a~~

~~communication~~ If the judge finds that sufficient evidence, aside from the communication, has been introduced to warrant a finding that the legal service was sought or obtained in order to enable or aid the commission or planning of a crime or a tort; ~~or;~~ (2) ~~to a communication~~ relevant to an issue between parties all of whom claim through the client, regardless of whether the respective claims are by testate or intestate succession or by *inter vivos* transaction; ~~or;~~ (3) ~~to a communication~~ relevant to an issue of breach of duty by the ~~lawyer attorney~~ to ~~his or her~~ *such attorney's* client, or by the client to ~~his or her lawyer, or such client's attorney;~~ (4) ~~to a communication~~ relevant to an issue concerning an attested document of which the ~~lawyer attorney~~ is an attesting witness; ~~;~~ or (5) ~~to a communication~~ relevant to a matter of common interest between two or more clients if made by any of them to ~~a lawyer an attorney~~ whom they have retained in common when offered in an action between any of such clients.

(c) *Definitions.* As used in this section:

(1) "Client" means a person or corporation or other association that, directly or through an authorized representative, consults ~~a lawyer an attorney~~ or ~~lawyer's attorney's~~ representative for the purpose of retaining the ~~lawyer attorney~~ or securing legal service or advice from the ~~lawyer attorney~~ in ~~his or her~~ a professional capacity; and includes an incapacitated person who, or whose guardian on behalf of the incapacitated person, so consults the ~~lawyer attorney~~ or the ~~lawyer's attorney's~~ representative in behalf of the incapacitated person;

(2) "Communication" includes advice given by the ~~lawyer attorney~~ in the course of representing the client and includes disclosures of the client to a representative, associate or employee of the ~~lawyer attorney~~ incidental to the professional relationship;

(3) "~~lawyer~~Attorney" means a person authorized, or reasonably believed by the client to be authorized, to practice law in any state or nation the law of which recognizes a privilege against disclosure of confidential communications between client and ~~lawyer attorney~~.

Section 3. K.S.A. 60-2601 is hereby amended to read as follows: 60-2601. (a) *General powers and duties.* In the performance of their duties all clerks of record shall be under the direction of the court.

(b) *Dockets.* Subject to the provisions of K.S.A. 60-2601a, and amendments thereto, the clerk of the court shall keep the following dockets or other records which may be ordered by the court in the following manner:

(1) *Appearance docket.* The clerk shall keep one or more appearance dockets and enter each civil action in the docket. Actions within each appearance docket shall be assigned consecutive file numbers. The file number of each action shall be noted on the docket on which the first entry of the action is made. All papers filed with the clerk, all process issued and returns made and, all appearances, orders, verdicts and judgments shall be noted chronologically on the appearance docket. These notations shall be brief but shall show the nature of each paper filed or writ issued and the substance of each order or judgment of the court and of the returns showing execution of process.

(2) *General index.* The general index shall be kept in a form in which names are arranged in alphabetical order. Plaintiffs, petitioners, defendants and respondents shall be listed as well as the case file number.

(c) *Issuance of writs and orders.* All writs and orders for provisional remedies shall be issued by the clerks of the several courts, upon praecipes filed with the clerk,

demanding the writs and orders.

(d) *Filing and preservation of papers.* Except as otherwise provided by law, it is the duty of the clerk of each of the courts to file together and carefully preserve in the office of the clerk all papers delivered to the clerk for that purpose, in every action or special proceeding. The clerk shall keep the papers separate in each case, carefully enveloped in a wrapper or folder labeled with the title of the cause. Orders and journal entries requiring the signature of the judge shall have the date and time of day stamped on them by the clerk immediately upon receipt of the signed order or journal entry and the clerk or deputy shall initial the stamp. The clerk shall stamp on all other filed papers, the date and time of day of receiving them and initial the stamp. *The date and time of receipt of filings received by the clerk shall be recorded.*

Sec. 4. K.S.A. 60-2601a is hereby amended to read as follows: 60-2601a. In any county which has a computer information storage and retrieval system for the use of the clerk of the district court of such county, the records and information required to be maintained in the dockets and journals under the provisions of ~~subsections~~ *subsection* (b)(1), (2), (3), and (4) of K.S.A. 60-2601, and amendments thereto, may, upon order of the ~~chief judge of such~~ *supreme court*, be maintained in such computer information storage and retrieval system. The clerk of the district court of such county shall be charged with the responsibility of making such records and information maintained in such computer information storage and retrieval system accessible to the public during normal working hours.

Sec. 5. K.S.A. 2010 Supp. 60-3003 is hereby amended to read as follows: 60-3003. (a) At the time of the filing of the foreign judgment, the judgment creditor or the judgment creditor's ~~lawyer~~ *attorney* shall make and file with the clerk of the district court an affidavit setting forth the name and last known post office address of the judgment debtor, and the judgment creditor.

(b) Promptly upon the filing of the foreign judgment and the affidavit, the judgment creditor or the judgment creditor's ~~lawyer~~ *attorney* shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given. The notice shall include the name and post office address of the judgment creditor and the judgment creditor's ~~lawyer~~ *attorney*, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the clerk of the district court and may file proof of mailing with the clerk of the district court.

Sec. 6. K.S.A. 2010 Supp. 60-4107 is hereby amended to read as follows: 60-4107. (a) Property may be seized for forfeiture by a law enforcement officer upon process issued by the district court. The court may issue a seizure warrant on an affidavit under oath demonstrating that probable cause exists for the property's forfeiture or that the property has been the subject of a previous final judgment of forfeiture in the courts of any state or of the United States. The court may order that the property be seized on such terms and conditions as are reasonable in the discretion of the court. The order may be made on or in connection with a search warrant. All real property is to be seized constructively or pursuant to a pre-seizure adversarial judicial determination of probable cause, except that this determination may be done *ex parte* when the attorney for the state has demonstrated exigent circumstances to the court.

(b) Property may be seized for forfeiture by a law enforcement officer without process on probable cause to believe the property is subject to forfeiture under this act.

(c) Property may be seized constructively by:

(1) Posting notice of seizure for forfeiture or notice of pending forfeiture on the property.

(2) Giving notice pursuant to K.S.A. 60-4109, and amendments thereto.

(3) Filing or recording in the public records relating to that type of property notice of seizure for forfeiture, notice of pending forfeiture, a forfeiture lien or a *lis pendens*. Filings or recordings made pursuant to this act are not subject to a filing fee or other charge, *except that court costs may be assessed and, if assessed, shall include the amount of the docket fee prescribed by K.S.A. 60-2001, and amendments thereto, and any additional court costs accrued in the action.*

(d) The seizing agency shall make reasonable effort to provide notice of the seizure to the person from whose possession or control the property was seized and any interest holder of record within 30 days of seizing the property. If no person is in possession or control, the seizing agency may attach the notice to the property or to the place of the property's seizure or may make a reasonable effort to deliver the notice to the owner of the property. The notice shall contain a general description of the property seized, the date and place of seizure, the name of the seizing agency and the address and telephone number of the seizing officer or other person or agency from whom information about the seizure may be obtained.

(e) A person who acts in good faith and in a reasonable manner to comply with an order of the court or a request of a law enforcement officer is not liable to any person on account of acts done in reasonable compliance with the order or request. No liability may attach from the fact that a person declines a law enforcement officer's request to deliver property.

(f) A possessory lien of a person from whose possession property is seized is not affected by the seizure.

(g) When property is seized for forfeiture under this act, the seizing agency shall, within 45 days of such seizure, forward to the county or district attorney in whose jurisdiction the seizure occurred, a written request for forfeiture which shall include a statement of facts and circumstances of the seizure, the estimated value of the property, the owner and lienholder of the property, the amount of any lien, and a summary of the facts relied on for forfeiture.

(h) Upon receipt of a written request for forfeiture from a local law enforcement agency, the county or district attorney shall have 14 days to accept the request. Should such county or district attorney decline such request, or fail to answer, the seizing agency may:

(1) Request a state law enforcement agency which enforces this act to adopt the forfeiture; or

(2) engage an attorney, approved by the county or district attorney, to represent the agency in the forfeiture proceeding.

(i) Upon receipt of a written request for forfeiture from a state law enforcement agency, the county or district attorney shall have 14 days to accept the request. Should such county or district attorney decline such request, or fail to answer, the seizing agency may engage an assistant attorney general or other attorney approved by the attorney general's office to represent the agency in the forfeiture proceeding.

(j) Nothing in this act shall prevent the attorney general, an employee of the attorney general or an authorized representative of the attorney general from conducting forfeiture proceedings under this act.

(k) Nothing in this act shall prevent a seizing agency from requesting federal adoption of a seizure. It shall not be necessary to obtain any order pursuant to K.S.A. 22-2512, and amendments thereto, to release any seized property to a federal agency should the county or district attorney approve of such transfer.

(l) Nothing in this act shall prevent a seizing agency, or the plaintiff's attorney on behalf of the seizing agency, from settling any alleged forfeiture claim against property before or during forfeiture proceedings. Such settlement shall be in writing and shall be approved, if a local agency, by the county or district attorney or, if a state agency, by the attorney general's office and a district court judge. No hearing or other proceeding shall be necessary. The records of settlements occurring prior to commencement of judicial forfeiture proceedings in the district court shall be retained by the county or district attorney for not less than five years.

(m) Settlements under this act shall not be conditioned upon any disposition of criminal charges.

Sec. 7. K.S.A. 2010 Supp. 60-4109 is hereby amended to read as follows: 60-4109. (a) Forfeiture proceedings shall be commenced by filing a notice of pending forfeiture or a judicial forfeiture action:

(1) If the plaintiff's attorney fails to initiate forfeiture proceedings by notice of pending forfeiture within 90 days against property seized for forfeiture or if the seizing agency fails to pursue forfeiture of the property upon which a proper claim has been timely filed by filing a judicial forfeiture proceeding within 90 days after notice of pending forfeiture, the property shall be released on the request of an owner or interest holder to such owner's or interest holder's custody, as custodian for the court, pending further proceedings pursuant to this act. Such custodianship shall not exceed 90 days following the release to the owner or interest holder unless an extension is authorized by the court for good cause shown.

(2) If, after notice of pending forfeiture, a claimant files a petition for recognition of exemption pursuant to K.S.A. 60-4110, and amendments thereto, the plaintiff's attorney may delay filing the judicial forfeiture proceeding for a total of 180 days after the notice of pending forfeiture except that if an interest holder timely files a proper petition documenting the complete nature and extent of such holder's interest, including all of the contractual terms and current status, the plaintiff's attorney may delay filing a judicial forfeiture proceeding only if such attorney provides each such petitioner with a written recognition of exemption within 60 days after the effective date of the notice of pending forfeiture, recognizing the interest of such petitioner to the extent of documented outstanding principal plus interest at the contract rate until paid and any attorney fees ordered by a court pursuant to such contract.

(3) Whenever notice of pending forfeiture or service of an in rem complaint or notice of a recognition of exemption and statement of nonexempt interests is required under this act, notice or service shall be given in accordance with one of the following:

(A) If the owner's or interest holder's name and current address are known, by either personal service by any person qualified to serve process or by any law enforcement officer or by mailing a copy of the notice by certified mail, return receipt requested, to the known address;

(B) if the owner's or interest holder's name and address are required by law to be on record with a municipal, county, state or federal agency to perfect an interest in the property, and the owner's or interest holder's current address is not known, by mailing a

copy of the notice by certified mail, return receipt requested, to any address of record with any of the described agencies; or

(C) if the owner's or interest holder's address is not known and is not on record as provided in paragraph (B), or the owner's or interest holder's interest is not known, by publication in one issue of the official county newspaper, as defined by K.S.A. 64-101, and amendments thereto, in the county in which the seizure occurred.

(4) Notice is effective upon personal service, publication or the mailing of a written notice, whichever is earlier, except that notice of pending forfeiture of real property is not effective until it is recorded. Notice of pending forfeiture shall include a description of the property, the date and place of seizure, the conduct giving rise to forfeiture or the violation of law alleged and a summary of procedures and procedural rights applicable to the forfeiture action.

(b) The plaintiff's attorney, without a filing fee, may file a lien for the forfeiture of property upon the initiation of any civil or criminal proceeding relating to conduct giving rise to forfeiture under this act or upon seizure for forfeiture. *Court costs may be assessed and, if assessed, shall include the amount of the docket fee prescribed by K.S.A. 60-2001, and amendments thereto, and any additional court costs accrued in the action.* A plaintiff's attorney may also file a forfeiture lien in this state in connection with a proceeding or seizure for forfeiture in any other state under a state or federal statute substantially similar to the relevant provisions of this act. The filing constitutes notice to any person claiming an interest in the seized property or in property owned by the named person.

(1) The lien notice shall set forth the following:

(A) The name of the person and, in the discretion of the lienor, any alias, or the name of any corporation, partnership, trust or other entity, including nominees, that are owned entirely or in part or controlled by the person; and

(B) the description of the seized property, the criminal or civil proceeding that has been brought relating to conduct giving rise to forfeiture under this act, the amount claimed by the lienor, the name of the district court where the proceeding or action has been brought, and the case number of the proceeding or action if known at the time of filing.

(2) A lien filed pursuant to this subsection applies to the described seized property or to one named person, any aliases, fictitious names, or other names, including the names of any corporation, partnership, trust, or other entity, owned entirely or in part, or controlled by the named person, and any interest in real property owned or controlled by the named person. A separate forfeiture lien shall be filed for each named person.

(3) The notice of lien creates, upon filing, a lien in favor of the lienor as it relates to the seized property or the named person or related entities. The lien secures the amount of potential liability for civil judgment, and if applicable, the fair market value of seized property relating to all proceedings under this act enforcing the lien. The notice of forfeiture lien referred to in this subsection shall be filed in accordance with the provisions of the laws of this state relating to the type of property that is subject to the lien. The validity and priority of the forfeiture lien shall be determined in accordance with applicable law pertaining to liens. The lienor may amend or release, in whole or in part, a lien filed under this subsection at any time by filing, without a filing fee, an amended lien in accordance with this subsection which identifies the lien amended. The lienor, as soon as practical after filing the lien, shall furnish to any person named in the

lien a notice of the filing of the lien. Failure to furnish notice under this subsection shall not invalidate or otherwise affect the lien.

(4) Upon entry of judgment in the seizing agency's favor, the seizing agency may proceed to execute on the lien as provided by law.

(5) A trustee, constructive or otherwise, who has notice that a notice of forfeiture lien, or a notice of pending forfeiture, or a civil forfeiture proceeding has been filed against the property or against any person or entity for whom the person holds title or appears as record owner, shall furnish within 14 days, to the seizing agency or the plaintiff's attorney all of the following information, unless all of the information is of record in the public records giving notice of liens on that type of property:

(A) The name and address of each person or entity for whom the property is held;

(B) the description of all other property whose legal title is held for the benefit of the named person; and

(C) a copy of the applicable trust agreement or other instrument, if any, under which the trustee or other person holds legal title or appears as record owner of the property.

(6) A trustee with notice who knowingly fails to comply with the provisions of this subsection shall be guilty of a class B nonperson misdemeanor.

(7) A trustee with notice who fails to comply with paragraph (5) is subject to a civil penalty of \$100 for each day of noncompliance. The court shall enter judgment ordering payment of \$100 for each day of noncompliance from the effective date of the notice until the required information is furnished or the seizing agency executes the seizing agency's judgment lien under this section.

(8) To the extent permitted by the constitutions of the United States and the state of Kansas, the duty to comply with paragraph (5) shall not be excused by any privilege or provision of law of this state or any other state or country which authorizes or directs that testimony or records required to be furnished pursuant to paragraph (5) are privileged, confidential and otherwise may not be disclosed.

(9) A trustee who furnishes information pursuant to paragraph (5) is immune from civil liability for the release of the information.

(10) An employee of the seizing agency or the plaintiff's attorney who releases the information obtained pursuant to paragraph (5), except in the proper discharge of official duties, is guilty of a class B nonperson misdemeanor.

(11) If any information furnished pursuant to paragraph (5) is offered in evidence, the court may seal that portion of the record or may order that the information be disclosed in a designated way.

(12) A judgment or an order of payment entered pursuant to this section becomes a judgment lien against the property alleged to be subject to forfeiture.

Sec. 8. K.S.A. 60-426, 60-2601 and 60-2601a and K.S.A. 2010 Supp. 60-3003, 60-4107 and 60-4109 are hereby repealed.";

By renumbering the remaining section;

On page 1, in the title, by striking all in lines 1 through 5 and inserting: "AN ACT concerning civil procedure; relating to electronic filing; relating to forfeiture; amending K.S.A. 60-426, 60-2601 and 60-2601a and K.S.A. 2010 Supp. 60-3003, 60-4107 and 60-4109 and repealing the existing sections.";

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

PAT COLLOTON

LANCE KINZER

MELODY McCRAY-MILLER

Conferees on part of House

THOMAS C. OWENS

JEFF KING

DAVID HALEY

Conferees on part of Senate

Senator Owens moved the Senate adopt the Conference Committee Report on **H Sub for SB 63**.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 143** submits the following report:

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

On page 6, following line 26, by inserting:

"Sec. 13. K.S.A. 2010 Supp. 71-201 is hereby amended to read as follows: 71-201.

(a) The board of trustees, in accordance with the provisions of law and the rules and regulations of the state board of regents, shall have custody of and be responsible for the property of the community college and shall be responsible for the operation, management and control of the college. The board of trustees shall hold at least one regular meeting each month at a time prescribed by the board. The board shall make an annual report in the manner prescribed by the state board of regents. Members of the board of trustees shall be paid subsistence allowances, mileage and other actual and necessary expenses incurred in the performance of their official duties.

(b) For effectuation of the purposes of this act, the board of trustees in addition to such other powers expressly granted to it by law and subject to the rules and regulations of the state board of regents is hereby granted the following powers:

(1) To select its own chairperson and such other officers as it may deem desirable, from among its own membership. The secretary may be chief administrative officer of the college.

(2) To sue and be sued.

(3) To determine the educational program of the college subject to prior approval thereof as provided in this act and to grant certificates of completion of courses or

curriculum.

(4) To appoint and fix the compensation and term of office of a president or chief administrative officer of the college.

(5) To appoint upon nomination of the president or the chief administrative officer members of the administrative and teaching staffs, to fix and determine within state adopted standards their specifications, define their duties; and to fix their compensation and terms of employment. No community college teacher shall be required to meet licensure requirements greater than those required in the state educational institutions.

(6) Upon recommendation of the chief administrative officer, to appoint or employ such other officers of the college, agents and employees as may be required to carry out the provisions of law and to fix and determine within state adopted standards their qualifications, duties, compensation, terms of office or employment and all other items and conditions of employment.

(7) To enter into contracts.

(8) To accept from any government or governmental agency, or from any other public or private body, or from any other source, grants or contributions of money or property which the board may use for or in aid of any of its purposes.

(9) To acquire by gift, purchase, lease-purchase, condemnation or otherwise, and to own, lease, use and operate property, whether real, personal, or mixed, or any interest therein, which is necessary or desirable for community college purposes. Any lease-purchase agreement entered into under authority of this subsection shall be subject to the conditions set forth in K.S.A. 10-1116c, and amendments thereto. The term of any lease entered into under authority of this subsection may be for not to exceed 10 years. Such lease may provide for annual or other payment of rent or rental fees and may obligate the community college to payment of maintenance or other expenses. Any lease or lease-purchase agreement entered into under authority of this subsection shall be subject to change or termination at any time by the legislature. Any assignment of rights in any lease or lease-purchase made under this subsection shall contain a citation of this section and a recitation that the lease or lease-purchase agreement and assignment thereof are subject to change or termination by the legislature. To the extent that the provisions of the cash-basis and budget laws conflict with this subsection in such a manner as to prevent the intention of this subsection from being made effective, the provisions of this subsection shall control. This provision is subject to the provisions of subsection (d).

(10) To enter into lease agreements as lessor of any property, whether real, personal, or mixed, which is owned or controlled by the community college. Any such agreement may specify the purposes for which the property may be used, require that the property be maintained and operated by the lessee, and may contain such restrictions or limitations on the use of the property, be entered into for such period of time, and include such other terms and conditions as the board of trustees determines to be necessary and proper. Every such agreement shall be subject to change or termination at any time by the legislature. Any assignment of rights under any such agreement shall be subject to approval by the board of trustees and shall contain a citation of this section and a recitation that the lease agreement and assignment of rights thereunder are subject to change or termination by the legislature.

(11) To determine that any property owned by the college is no longer necessary for college purposes and to dispose of the same in such manner and upon such terms and

conditions as provided by law.

(12) To exercise the right of eminent domain, pursuant to chapter 26 of Kansas Statutes Annotated.

(13) To make and promulgate such rules and regulations, not inconsistent with the provisions of law or with rules and regulations of the state board of regents, that are necessary and proper for the administration and operation of the community college, and for the conduct of the business of the board of trustees.

(14) To exercise all other powers not inconsistent with the provisions of law or with the rules and regulations of the state board of regents which may be reasonably necessary or incidental to the establishment, maintenance and operation of a community college.

(15) To appoint a member to fill any vacancy on the board of trustees for the balance of the unexpired term. When a vacancy occurs, the board shall publish a notice one time in a newspaper having general circulation in the community college district stating that the vacancy has occurred and that it will be filled by appointment by the board not sooner than 15 days after such publication.

(16) To contract with one or more agencies, either public or private, whether located within or outside the community college district or whether located within or outside the state of Kansas for the conduct by any such agencies of ~~academic or vocational~~ education for students of the community college, and to provide for the payment to any such agencies for their contracted educational services from any funds or moneys of the community college, including funds or moneys received from student tuition and fees, funds received from the state of Kansas or the United States for ~~academic or vocational~~ education, or taxes collected under K.S.A. 71-204, and amendments thereto. Any contract made under this subsection with an institution of another state shall be subject to the provisions of K.S.A. 71-202, and amendments thereto.

(17) To authorize by resolution the establishment of a petty cash fund in an amount not to exceed \$1,000, and to designate in such resolution an employee to maintain such petty cash fund. The employee designated in any resolution provided for in this subsection receiving such funds shall keep a record of all receipts and expenditures from the fund, and shall from time to time, and at the end of the fiscal year, prepare a statement for the board showing all receipts, expenditures, and the balance in the petty cash fund. The board of trustees may authorize the employee designated to maintain any petty cash fund to make a claim for replenishment of the fund to its original amount in advance of approval by the board of trustees if, at any time during the period between regular monthly meetings of the board of trustees, the balance remaining in the fund is insufficient to make needed expenditures for any purpose for which the petty cash fund is maintained. No petty cash fund may be replenished more than one time during each period between regular monthly meetings of the board of trustees. If a petty cash fund is replenished prior to the end of the fiscal year in accordance with the foregoing authorization, the employee authorized to maintain the petty cash fund shall keep an accurate record of all expenditures made therefrom, and the purpose therefor, and shall submit the record to the board of trustees at the next regular monthly meeting thereof. The petty cash fund shall be replenished by payment from the appropriate funds of the community college to the petty cash fund upon proper claim. The fund shall be kept separate from all other funds and shall be used only for authorized expenditures and

itemized receipts shall be taken for each expenditure. No part of such fund may be loaned or advanced against the salary of an employee. All employees entrusted with such funds under this subsection shall be bonded by the community college district.

(c) Subject to the provisions of subsection (d), the board of trustees may purchase or otherwise acquire land or land and improvements and may acquire, construct, reconstruct, repair or remodel improvements thereon or additions thereto, including furnishings, equipment, and architectural and incidental expense related thereto, and for such purposes the board of trustees is authorized to issue and sell general obligation bonds, the cumulative total not to exceed the following amounts: Where the community college district has a taxable tangible valuation of less than \$90,000,000 or is located in a county designated as urban under the provisions of K.S.A. 19-3524, and amendments thereto, not to exceed 5% of the taxable tangible property of the community college district, and where the community college district has a taxable tangible valuation of more than \$90,000,000 not to exceed 3% except as provided above for any community college district located in a county designated as urban under the provisions of K.S.A. 19-3524, and amendments thereto, of the taxable tangible property of the community college district. If any increase in the valuation of a community college district results in an outstanding bonded indebtedness in excess of that provided in this subsection, such increase shall not constitute a violation of this subsection. No such bonds shall be issued until the question of their issuance shall have been submitted to a vote of the electors of the community college district at a regular election or at a special election called for that purpose and the majority of the electors voting on the proposition in such community college district shall have voted in favor of the issuance of the bonds. Such election shall be called, noticed and held and the bonds issued, sold, delivered and retired in accordance with the provisions of the general bond law except as herein otherwise expressly provided.

(d) The board of trustees of a community college may purchase or otherwise acquire land or land and improvements within: (1) The community college district; or (2) the service area of the community college. Nothing in this subsection shall be construed or operate in any manner to require a board of trustees to sell, convey or otherwise dispose of land or land and improvements located outside the community college district or the service area of the community college and owned or being acquired by the community college on the effective date of this act.

For the purposes of this subsection, "service area" means a designated geographic area of the state established pursuant to agreement of the presidents of the community colleges and adopted in policy by the state board of regents.";

And by renumbering sections accordingly;

On page 7, following line 11, by inserting:

"Sec. 15. K.S.A. 71-604 is hereby amended to read as follows: 71-604. (a) If the amount of any appropriation for state ~~entitlements~~ *aid* is insufficient to pay in full the amount each community college is ~~entitled~~ *otherwise eligible* to receive, the amount appropriated shall be prorated among all community colleges in proportion to the amount each is ~~entitled~~ *eligible* to receive.

(b) If any community college is paid more than the amount it is ~~entitled~~ *eligible* to receive, the state board shall notify the community college of the amount of the overpayment and the community college shall remit the same to the state board and the state board shall deposit the same in the state treasury to the credit of the general fund,

and if any such community college fails ~~so~~ to remit, the state board shall deduct the excess amount so paid from future payments becoming due to such community college.

(c) If any community college is paid less than the amount it is ~~entitled~~ *eligible* to receive, the state board shall pay the additional amount due at any time within the fiscal year in which the underpayment was made or within 60 days after the end of such fiscal year.

Sec. 16. K.S.A. 71-609 is hereby amended to read as follows: 71-609. (a) No amount of a state ~~entitlement~~ *funding* shall be based upon enrollment in any subject or course the principal part of which is taught at a location outside the county of the main campus of the community college, unless the location of such subject or course is specifically authorized by the state board of regents.

(b) (1) No amount of a state ~~entitlement~~ *funding* shall be based upon enrollment 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.

(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.

Sec. 17. K.S.A. 71-609a is hereby amended to read as follows: 71-609a. No amount of the state ~~entitlement~~ *operating grant* of a community college 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 such 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.~~ *credit hour for which the community college is receiving or is eligible to receive postsecondary tiered technical education state aid.*

Sec. 18. K.S.A. 71-614 is hereby amended to read as follows: 71-614. Any lawful transfer of money from the general fund of a community college to the ~~vocational-career technical~~ *education fund*, adult education fund, adult supplementary education fund or motorcycle driver safety fund shall be an operating expense in the year the transfer is made. The board of trustees of any community college may transfer moneys from its general fund to its ~~vocational-career technical~~ *education fund*, adult education fund, adult supplementary education fund or motorcycle driver safety fund. Expenditures for ~~vocational-career technical~~ *education*, adult basic education, adult supplementary education and motorcycle driver safety shall not be made from the general fund of a community college.";

And by renumbering sections accordingly;

On page 9, following line 19, by inserting:

"Sec. 20. K.S.A. 71-701 is hereby amended to read as follows: 71-701. As used in this act:

(a) *"Board of trustees" means the governing body of a community college.*

(b) *"Campus" means the location of all or part of the buildings and facilities of a community college.*

(c) *"Chief administrative officer" means the president or one so appointed by the board of trustees.*

~~(d)~~ (d) *"Community college" means a public community college established under the provisions of this act. The official name of a community college shall be "the _____ community college" and the blank shall be filled with the name of the city or county.*

~~(b)~~ (b) *"State board" means the state board of regents.*

~~(e)~~ (e) *"Community college district" means the taxing district of a community college.*

~~(d)~~ (d) *"Board of trustees" means the governing body of a community college.*

~~(e)~~ (e) *"State plan" means the plan adopted for community colleges as provided by law, and such plan as it is from time to time amended by the state board upon recommendation of the advisory council; such plan may include other matters listed in the community college act and acts amendatory thereof, or supplemental thereto.*

~~(f)~~ (f) *"Campus" means the location of all or part of the buildings and facilities of a community college.*

~~(g)~~ (g) *"Advisory council" means the advisory council provided for by K.S.A. 71-901, and amendments thereto.*

~~(f)~~ (f) *"State board" means the state board of regents.*

~~(h)~~ (g) *"Student tuition" means the charge made to and paid by students for the privilege of attending a community college and participating in the institutional program.*

~~(i)~~ (i) *"Chief administrative officer" means the president or one so appointed by the board of trustees.*

Sec. 21. K.S.A. 71-802 is hereby amended to read as follows: 71-802. At any time, if the state board of regents finds that a community college previously approved or deemed approved has failed to comply with the provisions of this act or with any provision of a rule or regulation adopted pursuant to this act, or fails to meet the standards contained in this act, the state board of regents shall so advise the board of trustees. If after 12 calendar months after any such notification such board of trustees has failed to correct the deficiency noted, the state board of regents shall withdraw approval of the community college and it shall not be ~~entitled to~~ *eligible for* state aid during the continuance of any such period of withdrawal. Any action of the state board of regents in granting, denying or withdrawing approval of a community college shall be subject to review by the legislature.

Sec. 22. K.S.A. 71-1201 is hereby amended to read as follows: 71-1201. Territory may be added to any community college district which has been established under this act either by deemed approval or by election approval by one of the following methods:

(a) The board of education of any unified district a part of which is in the community college district or which touches and adjoins a community college district may petition the state board for attachment of the territory of such unified district to the community college district for community college purposes. Upon receiving any petition under this subsection, the same shall be submitted ~~to the advisory council for its advice and recommendations which, together with the petition, shall be presented~~ to the state board. After considering the petition, the state board may approve such attachment;

~~if the advisory council has so recommended. If the advisory council has not so recommended.~~ The state board ~~shall so inform~~ *may seek the recommendation of* the board of trustees of the community college involved ~~and may request its recommendation~~ as to such attachment. If such request is made and if such board of trustees recommends such attachment, the same may be approved by the state board. Upon granting any approval for attachment of territory the state board shall so inform the county election officers of counties in which the territory to be attached is located, and such county election officers shall conduct an election for approval for such attachment in the area petitioned for attachment. Such election shall be conducted in accordance with the procedure for approval for establishment of a community college as specified in this act. The question submitted shall be: "Shall the proposed attachment of territory to the _____ community college district be approved?", and the blank shall be filled with the name of the community college. The expenses of the election shall be paid by the community college. In the event that such attachment is so approved by such election the state board shall issue an order attaching the same to the community college district. The provisions of subsection (b) of K.S.A. 71-1102, and amendments thereto, shall also apply to this subsection.

(b) Any board of trustees may petition the state board for the attachment of any adjoining territory to the community college district. Such petition shall be processed as *set forth* in subsection (a) ~~of this section, except that in the event of disapproval by the advisory council the state board shall so inform the board of trustees and in such case such attachment shall not be made.~~ If the ~~advisory council~~ *state board* approves such petition, the state board shall notify the county election officers of counties in which the territory to be attached is located, and such county election officers shall conduct an election for approval of such attachment in the area petitioned for attachment. No attachment of territory shall be made under this subsection unless such attachment has been approved by a majority of those voting in the territory to be attached. Such election shall be conducted in accordance with the procedure for approval of the establishment of community colleges as specified in this act. The question submitted shall be: "Shall the proposed attachment of territory to the _____ community college district be approved?", and the blank shall be filled with the name of the community college. In the event that such attachment is so approved by such election the state board shall issue an order attaching the same to the community college district. The expenses of the election shall be paid by the community college.

(c) No territory shall be attached to any community college district within 120 days prior to the general election of members of the board of trustees.

(d) If the community college attaching territory under subsection (a) or (b) has member district method of election, no approval thereof shall be given by the state board and no proposition for approval thereof shall be submitted to any election until new proposed member districts for the community college territory as the same will exist after the addition of territory have been established by the state board.

Sec. 23. K.S.A. 2010 Supp. 71-1507 is hereby amended to read as follows: 71-1507. (a) The board of trustees of any community college and the board of any ~~area vocational school or area vocational-technical school~~ *technical college or the institute of technology at Washburn university*, may make and enter into agreements providing for the transfer from the ~~area vocational school or area vocational-technical school~~ *technical college or the institute of technology* to the community college of any

approved career technical education program being offered and taught at the postsecondary level in the ~~area vocational school or area vocational technical school~~ technical college or the institute of technology.

(b) In the event the board of trustees of a community college and the board of ~~an area vocational school or area vocational technical school~~ any technical college or the institute of technology at Washburn university enter into an agreement authorized under subsection (a), the following conditions shall apply:

(1) The state board of regents shall be notified of the agreement at the time the agreement is executed.

(2) The agreement shall be effective only after approval by the state board of regents.

(3) Any career technical education program transferred in accordance with the agreement shall be offered and taught in the community college only after approval of the program by the state board of regents.

(4) The agreement shall be subject to change or termination by the legislature.

(5) (A) The duration of the agreement shall be perpetual unless terminated in accordance with provision (B).

(B) Termination of the agreement may be accomplished only upon approval by the state board of regents of a joint petition to it for termination by the contracting boards after adoption of a resolution to that effect by each such board. The state board of regents shall consider the petition and approve or disapprove termination of the agreement. Upon termination of the agreement, any program transferred thereunder shall be discontinued.

Sec. 24. K.S.A. 2010 Supp. 72-4412 is hereby amended to read as follows: 72-4412. As used in this act:

(a) *"Associate of applied science degree program" means a program that is offered and maintained by a technical college, composed of career technical and general education courses of instruction for which individuals may earn college credit, designed to prepare individuals for gainful employment in technical or technological occupations requiring other than a baccalaureate or advanced degree or to qualify individuals for transfer to another college or university and, after satisfactory completion of the requirements for graduation, results in the conferral of an associate of applied science degree. For the purpose of awarding college credit for completion of coursework leading to the conferral of an associate of applied science degree, the state board of regents shall determine the number of clock hours of instruction in general education courses or career technical education courses which shall be equivalent to a credit hour.*

~~(a)~~ (b) "Board" means the board of education of any school district, the board of trustees of any community college, the board of regents of any municipal university, ~~the board of control of any area vocational technical school~~, the governing body of any technical college, or the chief executive officer of any state educational institution.

~~(b) "Area vocational school" means any vocational education school established under authority of the laws of this state, approved and officially designated as an area vocational school by the state board, and operated under any board. Any area vocational school, except for purposes of the construction of this act, may retain and use the name given to such school prior to the effective date of this act, even though such name includes the words "area vocational technical school."~~

~~(e) "Area vocational-technical school" means any vocational education school which was classified as a type II area vocational-technical school under authority of former laws or which is established and classified as a type II area vocational-technical school under authority of this act. The school to which this definition applies is the Southeast Kansas area vocational-technical school.~~

~~The state board may adopt special rules and regulations applicable to the conduct, operation and administration of area vocational-technical schools. Nothing in this act shall be construed to authorize the establishment or operation of any area vocational-technical school not specifically designated in this subsection.~~

(c) "Career technical education" means organized educational programs offering a sequence of courses which are directly related to the preparation of individuals in paid or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs shall include competency-based applied learning which contributes to an individual's academic knowledge, higher-order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupational-specific skills necessary for economic independence as a productive and contributing member of society. The term "career technical education" also includes technology education and career and technical education as referenced in the Carl D. Perkins career and technical education act of 2006.

~~(d) "School district" means any school district organized under the laws of this state.~~

~~(e)~~ *(d) "Community college" means any community college organized and operating under the laws of this state.*

(e) "Institute of technology" or "Washburn institute of technology" means the institute of technology at Washburn university.

(f) "Municipal university" means a municipal university established under the provisions of article 13a of chapter 13 of Kansas Statutes Annotated, and amendments thereto.

~~(g)~~ *(g) "School district" means any school district organized under the laws of this state.*

(h) "School year" means the 12-month period ending on June 30.

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

~~(g)~~ *(j) "State educational institution" means the university of Kansas, Kansas state university of agriculture and applied science, Wichita state university, Emporia state university, Pittsburg state university and Fort Hays state university.*

(k) "State plan" means a document or set of documents, together with attachments and supplements thereto, containing such provisions as are authorized by this act and required by the Carl D. Perkins career and technical education act of 2006, and acts amendatory thereof or supplemental thereto.

~~(h)~~ *(l) "Technical college" means an educational institution that formerly was an area vocational school or an area vocational-technical school and that has been converted to, established as, and officially designated a technical college under authority of this act.*

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

~~(j)~~ *"School year" means the twelve-month period ending on June 30.*

~~(k) "Career technical education" means organized educational programs offering a sequence of courses which are directly related to the preparation of individuals in paid~~

or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs shall include competency-based applied learning which contributes to an individual's academic knowledge, higher-order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupational-specific skills necessary for economic independence as a productive and contributing member of society. The term "career technical education" also includes technology education and career and technical education as referenced in the Carl D. Perkins career and technical education act of 2006.

(h) ~~(m)~~ "Technology education" means an applied discipline designed to promote technological literacy which provides knowledge and understanding of the impacts of technology including its organizations, techniques, tools and skills to solve practical problems and extend human capabilities in technological areas.

~~(m)~~ "State plan" means a document or set of documents, together with attachments and supplements thereto, containing such provisions as are authorized by this act and required by the Carl D. Perkins career and technical education act of 2006, and acts amendatory thereof or supplemental thereto.

~~(n)~~ "Associate of applied science degree program" means a program that is offered and maintained by a technical college, composed of career technical and general education courses of instruction for which individuals may earn college credit, designed to prepare individuals for gainful employment in technical or technological occupations requiring other than a baccalaureate or advanced degree or to qualify individuals for transfer to another college or university and, after satisfactory completion of the requirements for graduation, results in the conferral of an associate of applied science degree. For the purpose of awarding college credit for completion of coursework leading to the conferral of an associate of applied science degree, the state board of regents shall determine the number of clock hours of instruction in general education courses or career technical education courses which shall be equivalent to a credit hour.

Sec. 25. K.S.A. 2010 Supp. 72-4415 is hereby amended to read as follows: 72-4415. The state board shall be responsible for the allocation and distribution of the state and federal funds for career and technical education *provided for pursuant to the Carl D. Perkins career and technical education act of 2006* in accordance with the state plan. Moneys allocated and distributed under the provisions of this section shall be expended only in accordance with and for the purposes specified in federal or state law or the state plan. Payments under this act may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments. Federal funds for career and technical education shall be deposited in the state treasury.

Sec. 26. K.S.A. 72-4440 is hereby amended to read as follows: 72-4440. As used in this act:

~~(a)~~ "Area vocational school," ~~"area vocational technical school,"~~ "Board," "state board," ~~and~~ "school year" ~~and~~ "technical college" have the meanings respectively ascribed thereto in K.S.A. 72-4412, and amendments thereto.

~~(b)~~ "Operating budget" shall have the meaning ascribed thereto in K.S.A. 72-4430, and amendments thereto.

~~(c)~~ "School" means any area vocational school and any area vocational technical school.

~~(d)~~ ~~Vocational~~ (b) "Career technical education capital outlay aid" means state

financial aid distributed under this act by the state board to ~~a school~~ *an eligible institution* for the purpose of construction, reconstruction, repair, remodeling, additions to, furnishing and equipping of ~~school~~ buildings, architectural expenses incidental thereto, the acquisition of buildings ~~for school purposes~~ and ~~school~~ building sites and the acquisition of equipment.

(c) *"Eligible institution" or "institution" means any technical college, Coffeyville community college, Cowley county community college, Dodge City community college, Highland community college, Hutchinson community college, Johnson county community college, Kansas City, Kansas community college, Pratt community college, Seward county community college and the institute of technology at Washburn university.*

Sec. 27. K.S.A. 72-4441 is hereby amended to read as follows: 72-4441. (a) There is hereby established in every ~~area vocational technical school~~ *eligible institution* a fund which shall be called the "~~vocational~~ *career technical* education capital outlay fund," which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by an ~~area vocational technical school~~ *eligible institution* from distributions made under this act shall be credited to the ~~vocational~~ *career technical* education capital outlay fund.

(b) Any moneys received, prior to or after the effective date of this act, by an ~~area vocational technical school~~ *eligible institution* from donations, gifts, grants or bequests, subject to any terms or conditions to the contrary imposed by the donor thereof, may be transferred to or deposited in the ~~vocational~~ *career technical* education capital outlay fund and may be expended by the ~~area vocational technical school~~ *institution* for any purpose for which ~~vocational~~ *career technical* education capital outlay aid may lawfully be expended.

Sec. 28. K.S.A. 72-4442 is hereby amended to read as follows: 72-4442. The amount of ~~vocational~~ *career technical* education capital outlay aid for each ~~school~~ *eligible institution* shall be determined by the state board on the basis of need and the condition of existing facilities and equipment and payments thereof shall be distributed on payment dates to be determined by the state board. The state board shall certify to the director of accounts and reports the amount due as ~~vocational~~ *career technical* education capital outlay aid to each ~~school~~ *eligible institution* five days before each payment date. The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each ~~school~~ *entitled to institution eligible for* payment of ~~vocational~~ *career technical* education capital outlay aid, pursuant to vouchers approved by the state board or by a person or persons designated by the state board. Upon receipt of such warrant, the treasurer of each ~~area vocational school~~ shall deposit the amount thereof to the credit of the ~~area vocational school~~ fund. The treasurer of each ~~area vocational technical school~~ *eligible institution* shall deposit the amount of such warrant to the credit of the ~~vocational~~ *career technical* education capital outlay fund established by this act.

In the event any ~~school~~ *eligible institution* is paid more than it is entitled to receive under any distribution made under this act, the state board shall notify the ~~school~~ *institution* of the amount of such overpayment, and such ~~school~~ *institution* 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~~ *institution* fails to remit, the state board shall deduct the excess amounts so paid from future payments becoming due to such ~~school~~ *institution*. In the event any ~~school~~ *institution* 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~~ *academic* year in which the underpayment was made or within 60 days after the end of such ~~school~~ *academic* year.

Sec. 29. K.S.A. 2010 Supp. 72-4450 is hereby amended to read as follows: 72-4450. As used in this act:

(a) "Career technical education program" means a program of vocational or technical training or retraining which is operated at the postsecondary level and is designed to prepare persons for gainful employment.

(b) "Career technical education institution" means any ~~area vocational school, area vocational-technical school,~~ technical college, community college, municipal university, or any state educational institution which operates one or more career technical education programs.

(c) "~~Area vocational school,~~" "~~area vocational-technical school,~~" "Community college," "*institute of technology,*" "~~—~~"municipal university," "state educational institution," "technical college," and "state board" have the meanings respectively ascribed thereto in K.S.A. 72-4412, and amendments thereto.

(d) "Private postsecondary educational institution" and "out-of-state postsecondary educational institution" have the meanings ascribed thereto in K.S.A. 2010 Supp. 74-32,163, and amendments thereto.

(e) "Program" means the Kansas training information program established by this act.

Sec. 30. K.S.A. 72-4453 is hereby amended to read as follows: 72-4453. (a) The board of trustees of every community college and the governing board of every ~~area vocational school or area vocational-technical school~~ *technical college and the institute of technology* shall make and enter into agreements providing the transferability of substantially equivalent courses of study and programs which are offered at such educational institutions in order to facilitate the articulation of students to and among such educational institutions.

(b) The following conditions shall apply to the agreements required under subsection (a):

(1) The state board of regents shall be notified of the agreement at the time the agreement is executed; and

(2) the agreement shall be effective only after approval by the state board of regents.

(c) The state board of regents shall prescribe criteria or guidelines for the purpose of determining which courses of study and programs offered in the ~~area vocational schools and area vocational-technical schools~~ *technical colleges and the institute of technology* are: (1) Substantially equivalent to courses of study and programs offered in the community colleges; and (2) transferable to the community colleges. ~~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.~~

Sec. 31. K.S.A. 72-4454 is hereby amended to read as follows: 72-4454. The state

board of regents shall adopt a policy requiring articulation agreements among ~~area vocational schools, area vocational-technical schools,~~ community colleges, technical colleges, *the institute of technology* and state educational institutions providing for the transferability of substantially equivalent courses of study and programs which are offered at ~~area vocational schools, area vocational-technical schools,~~ community colleges, technical colleges, *the institute of technology* and state educational institutions in order to facilitate articulation of students in technical programs to and among ~~area vocational schools, area vocational-technical schools,~~ community colleges, technical colleges, *the institute of technology* and state educational institutions.

Sec. 32. K.S.A. 2010 Supp. 72-4466 is hereby amended to read as follows: 72-4466. As used in this act:

(a) ~~"Area vocational school", "area vocational-technical school", and "Community college,"~~ *"technical college" and "institute of technology"* have the meanings respectively ascribed thereto in K.S.A. 72-4412, and amendments thereto.

(b) ~~"Career technical education institution" means any area vocational school, area vocational-technical school or community college,~~ *technical college or the institute of technology.*

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

(d) "Program" means Kansas technology innovation and internship program.

Sec. 33. K.S.A. 2010 Supp. 72-4470a is hereby amended to read as follows: 72-4470a. ~~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 establish and maintain a plan for a 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. 2010 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.~~ *Any amendments to the plan shall be submitted to the state board of regents for approval.*

~~(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 career technical 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 career technical education program of the college;

(4) appoint teaching staff and 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 licensure 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 career technical 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; *and*

(20) *fix different rates per hour of tuition, fees and charges for the different postsecondary programs administered by such board.*";

And by renumbering sections accordingly;

On page 10, following line 29, by inserting:

"Sec. 35. K.S.A. 2010 Supp. 72-4481 is hereby amended to read as follows: 72-4481. (a) There is hereby established the postsecondary technical education authority. The authority shall be composed of 12 members appointed as follows:

(1) Four members shall be appointed by the state board of regents. Of the members appointed by the state board of regents: Two shall be members of the state board of regents, or the designee thereof; one shall be a representative of the community colleges which provides technical education, or the designee thereof; and one shall be a representative of the technical colleges in the state, or the designee thereof;

(2) three members shall be appointed by the governor. Of the members appointed by the governor: One shall represent Kansas business and industry; and two shall represent the general public;

(3) one member shall be appointed by the president of the senate and shall be a representative of business and industry;

(4) one member shall be appointed by the speaker of the house of representatives and shall be a representative of business and industry; and

(5) the commissioner of education, the secretary of commerce and the secretary of labor, *or the designee thereof*, who shall serve as ex officio members of the authority.

(b) When making appointments of the representatives of Kansas business and industry and the general public, consideration shall be given to persons who are recognized for their knowledge or expertise and are representative of current and emerging technical career clusters of the state. No more than two members of the authority shall be representative of any one specific technical career cluster. Of the members appointed to represent Kansas business and industry and the general public, there shall be appointed at least one member from each congressional district. Redistricting of congressional districts occurring subsequent to a member's appointment shall not disqualify any member of the authority from service. The state board of regents shall determine the technical career clusters of the state.

(c) No more than five voting members of the authority shall be members of the same political party.

(d) Any vacancy in the membership of the authority shall be filled by appointment in the same manner as provided for original appointment of the member.

(e) The members of the authority shall meet and organize annually by electing one member as chairperson, except that the governor shall designate the first chairperson of the authority from among the first members appointed.

(f) The authority may meet at any time and at any place within the state on the call

of the chairperson. A quorum of the authority shall be five voting members. All actions of the authority shall be by motion adopted by a majority of those voting members present when there is a quorum.

(g) Members of the authority attending meetings of the authority, or attending a subcommittee meeting thereof authorized by the authority, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3212, and amendments thereto, for members of the legislature.

Sec. 36. K.S.A. 72-6214 is hereby amended to read as follows: 72-6214. (a) As used in this section, the following terms shall have the meanings respectively ascribed to them unless the context requires otherwise:

(1) "Board" means the state board of regents, the state board of education, the board of trustees of any public community ~~junior~~ college, the board of regents of any municipal university, ~~the board of control of any area vocational-technical school~~ *the governing board of any technical college* and the board of education of any school district.

(2) "Student" means a person who has attained ~~eighteen (18)~~ 18 years of age, or is attending an institution of postsecondary education.

(3) "Pupil" means a person who has not attained ~~eighteen (18)~~ 18 years of age and is attending an educational institution below the postsecondary level.

(b) Every board shall adopt a policy in accordance with applicable federal laws and regulations to protect the right of privacy of any student, or pupil and ~~his or her~~ *such pupil's* family regarding personally identifiable records, files and data directly related to such student or pupil. The board shall adopt and implement procedures to effectuate such policy by January 1, 1977. Such procedures shall provide for: (1) Means by which any student or parent of a pupil, as the case may be, may inspect and review any records or files directly related to the student or pupil; and (2) restricting the accessibility and availability of any personally identifiable records or files of any student or pupil and preventing disclosure thereof unless made upon written consent of such student or parent of such pupil, as the case may be. To the extent that any other provision of law conflicts with this section, this section shall control.";

And by renumbering sections accordingly;

On page 11, following line 38, by inserting:

"Sec. 38. K.S.A. 2010 Supp. 73-1217 is hereby amended to read as follows: 73-1217. The board of trustees of every community college, the board of regents of Washburn university of Topeka, ~~the board of control of every area vocational school~~ *governing board of every technical college* and the governing body of every other institution of post-high school education which is supported by any state moneys shall provide for enrollment without charge of tuition or fees for any dependent of a prisoner of war or a person missing in action, so long as such dependent is eligible, but not to exceed 12 semesters of instruction or the equivalent thereof at all such institutions for any person if the person started such instruction prior to July 1, 2005, or 10 semesters if the person started such instruction on or after July 1, 2005. Once a person qualifies as a dependent under the terms and provisions of this act, no occurrence, such as the return of the dependent's ~~father~~ *parent* or ~~his~~ *such parent's* reported death, shall disqualify the dependent from the provisions or benefits of this act. The state board of regents, the board of trustees of any community college, or the governing body of any other institution which grants tuition for fees without charge to a dependent under this act

may file a claim with the ~~Kansas veterans' commission~~ *Kansas commission on veterans affairs* for reimbursement of the amount of such tuition or fees. The ~~Kansas veterans' commission~~ *Kansas commission on veterans affairs* shall administer this act and qualifications of persons as dependents shall be determined by such commission. Such commission may adopt rules and regulations making more specific the definitions herein contained and for the administration of this act.

Sec. 39. K.S.A. 73-1218 is hereby amended to read as follows: 73-1218. The state board of regents, the board of trustees of every community ~~junior~~ college, the board of regents of Washburn university of Topeka, the ~~board of every area vocational school,~~ *the board of control of every area vocational technical school governing board of every technical college* and the governing body of every other institution of post-high school education which is supported by any state moneys shall provide for enrollment without charge of tuition or fees for any dependent of a person who died as the result of a service-connected disability suffered during the Vietnam conflict as a result of such conflict, so long as such dependent is eligible, but not to exceed ~~twelve (12)~~ *12* semesters of instruction or the equivalent thereof at all such institutions for any person. Once a person qualifies as a dependent under the terms and provisions of this act, no occurrence, such as the return of the dependent's father or mother, shall disqualify the dependent from the provisions or benefits of this act. The governing body of every institution of post-high school education which is supported by any state moneys and which grants tuition or fees without charge to a dependent under this act may file a claim with the ~~Kansas veterans' commission~~ *commission on veterans affairs* for reimbursement of the amount of such tuition or fees. The ~~Kansas veterans' commission~~ *commission on veterans affairs* shall administer this act and the qualification of persons as dependents shall be determined by such commission. Such commission may adopt rules and regulations making more specific the definition herein contained and for the administration of this act.

"Dependent" as used in this act shall mean any child born to, legally adopted by, or in the legal custody of a person who was a resident of the state of Kansas at the time such person entered service of the United States armed forces and who, while serving in said U. S. armed forces in the geographical area of the Vietnam conflict, has been declared to be a person who died as the result of a service-connected disability suffered during the Vietnam conflict as a result of such conflict.

Sec. 40. K.S.A. 2010 Supp. 74-3201b is hereby amended to read as follows: 74-3201b. As used in the Kansas higher education coordination act:

(a) *"Adult basic education program" and "adult supplementary education program" have the meanings respectively ascribed thereto in K.S.A. 72-4517, and amendments thereto.*

(b) *"Community college" means any community college established under the laws of this state.*

(c) *"Institute of technology" or "Washburn institute of technology" means the institute of technology at Washburn university.*

(d) *"Municipal university" means Washburn university of Topeka or any other municipal university established under the laws of this state.*

(e) *"Postsecondary educational institution" means any public university, municipal university, community college and technical college, and includes any entity resulting from the consolidation or affiliation of any two or more of such postsecondary*

educational institutions.

(f) "*Private postsecondary educational institution*" and "*out-of-state postsecondary educational institution*" have the meanings ascribed thereto in K.S.A. 2010 Supp. 74-32,163, and amendments thereto.

(g) "*Public university*" means any state educational institution.

(h) "*Representative of a postsecondary educational institution*" means any person who is the holder of an associate degree, a bachelor's degree, or a certificate of completion awarded by a postsecondary educational institution.

(~~h~~) (i) "State board of regents" or "state board" means the state board of regents provided for in the constitution of this state and established by K.S.A. 74-3202a, and amendments thereto, except as otherwise specifically provided in this act.

(~~h~~) (j) "State educational institution" means any state educational institution, as defined in K.S.A. 76-711, and amendments thereto.

(~~e~~) "~~Municipal university~~" means ~~Washburn university of Topeka or any other municipal university established under the laws of this state.~~

(~~d~~) "~~Community college~~" means any community college established under the laws of this state.

(~~e~~) (k) "Technical college" means any technical college established under the laws of this state.

(~~f~~) "~~Career technical education school~~" means any area vocational school or area vocational technical school established under the laws of this state.

(~~g~~) "~~Public university~~" means any state educational institution.

(~~h~~) "~~Postsecondary educational institution~~" means any public university, municipal university, community college, technical college and career technical education school, and includes any entity resulting from the consolidation or affiliation of any two or more of such postsecondary educational institutions.

(i) "*Private postsecondary educational institution*" and "*out-of-state postsecondary educational institution*" have the meanings ascribed thereto in K.S.A. 2010 Supp. 74-32,163, and amendments thereto.

(~~j~~) "~~Adult basic education program~~" and "~~adult supplementary education program~~" have the meanings respectively ascribed thereto in K.S.A. 72-4517, and amendments thereto.

(~~k~~) "~~Representative of a postsecondary educational institution~~" means any person who is the holder of an associate degree, a bachelor's degree, or a certificate of completion awarded by a postsecondary educational institution.

Sec. 41. K.S.A. 2010 Supp. 74-32,146 is hereby amended to read as follows: 74-32,146. As used in the Kansas national guard educational assistance act:

(a) "Kansas educational institution" means and includes ~~area vocational schools, area vocational technical schools,~~ community colleges, the municipal university, state educational institutions, technical colleges, *the institute of technology at Washburn university* and accredited independent institutions.

(b) "Eligible guard member" means a newly enlisted or reenlisted member of the Kansas national guard with not more than 20 years of service and who is enrolled at a Kansas educational institution. The term eligible guard member does not include within its meaning any member of the Kansas national guard who is the holder of a baccalaureate or higher academic degree, who does not hold a high school diploma or general educational development (GED) credentials, or who is entitled to federal

educational benefits earned by membership in the Kansas national guard, except financial assistance under the federal education assistance program (FEAP) for members of the selected reserve.

(c) "Kansas national guard educational assistance program" or "program" means the program established pursuant to the provisions of the Kansas national guard educational assistance act.

(d) "Educational program" means a program which is offered and maintained by a Kansas educational institution and leads to the award of a certificate, diploma or degree upon satisfactory completion of course work requirements.

Sec. 42. K.S.A. 2010 Supp. 74-32,151 is hereby 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; a technical college, community college, vocational school coordinated under the state board of regents~~ *the institute of technology at Washburn university* 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 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 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~~ *the institute of technology at Washburn university* 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 labor 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. 43. K.S.A. 2010 Supp. 75-4364 is hereby amended to read as follows: 75-4364. (a) As used in this section:

(1) *"Dependent" means: (A) A birth child, adopted child or stepchild; or (B) any child other than the foregoing who is actually dependent in whole or in part on the individual and who is related to such individual by marriage or consanguinity.*

(2) *"Emergency medical services attendant" means an attendant as defined by K.S.A. 65-6112, and amendments thereto.*

(3) *"Firefighter" means a person who is: (A) Employed by any city, county, township or other political subdivision of the state and who is assigned to the fire department thereof and engaged in the fighting and extinguishment of fires and the protection of life and property therefrom; or (B) a volunteer member of a fire district, fire department or fire company.*

~~(4) "Kansas educational institution" means and includes area vocational schools, area vocational technical schools, community colleges, the municipal university, state educational institutions, the institute of technology at Washburn university and technical colleges.~~

(5) *"Law enforcement officer" means a person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for violation of the laws of the state of Kansas or ordinances of any municipality thereof or with a duty to maintain or assert custody or supervision over persons accused or convicted of crime, and includes wardens, superintendents, directors, security personnel, officers and employees of adult and juvenile correctional institutions, jails or other institutions or facilities for the detention of persons accused or convicted of crime, while acting within the scope of their authority.*

(6) *"Military service" means any active service in any armed service of the United States and any active state or federal service in the Kansas army or air national guard.*

(7) *"Prisoner of war" means any person who was a resident of Kansas at the time the person entered service of the United States armed forces and who, while serving in the United States armed forces, has been declared to be a prisoner of war, as established by the United States secretary of defense, after January 1, 1960.*

~~(2) (8) "Public safety officer" means a law enforcement officer or a firefighter or an emergency medical services attendant.~~

~~(3) "Law enforcement officer" means a person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for violation of the laws of the state of Kansas or ordinances of any municipality thereof or with a duty to maintain or assert custody or supervision over persons accused or convicted of crime, and includes wardens, superintendents, directors, security personnel, officers and employees of adult and juvenile correctional institutions, jails or other institutions or facilities for the detention of persons accused or convicted of crime, while acting within the scope of their authority.~~

~~(4) "Firefighter" means a person who is: (1) Employed by any city, county, township or other political subdivision of the state and who is assigned to the fire department thereof and engaged in the fighting and extinguishment of fires and the protection of life and property therefrom; or (2) a volunteer member of a fire district, fire department or fire company.~~

~~(5) "Emergency medical services attendant" means an attendant as defined by K.S.A. 65-6112, and amendments thereto.~~

~~(6) "Dependent" means (A) a birth child, adopted child or stepchild or (B) any child other than the foregoing who is actually dependent in whole or in part on the individual and who is related to such individual by marriage or consanguinity.~~

~~(9) "Resident of Kansas" means a person who is a domiciliary resident as defined by K.S.A. 76-729, and amendments thereto.~~

~~(10) "Spouse" means the spouse of a deceased public safety officer or deceased member of the military service who has not remarried.~~

~~(7)-(11) "State board" means the state board of regents.~~

~~(8) "Military service" means any active service in any armed service of the United States and any active state or federal service in the Kansas army or air national guard.~~

~~(9) "Prisoner of war" means any person who was a resident of Kansas at the time the person entered service of the United States armed forces and who, while serving in the United States armed forces, has been declared to be a prisoner of war, as established by the United States secretary of defense, after January 1, 1960.~~

~~(10) "Resident of Kansas" means a person who is a domiciliary resident as defined by K.S.A. 76-729, and amendments thereto.~~

~~(11) "Spouse" means the spouse of a deceased public safety officer or deceased member of the military service who has not remarried.~~

(b) Every Kansas educational institution shall provide for enrollment without charge of tuition or fees for: (1) Any dependent or spouse of a public safety officer who died as the result of injury sustained while performing duties as a public safety officer so long as such dependent or spouse is eligible; (2) any dependent or spouse of any resident of Kansas who died on or after September 11, 2001, while, and as a result of, serving in military service; and (3) any prisoner of war. Any such dependent or spouse and any prisoner of war shall be eligible for enrollment at a Kansas educational institution without charge of tuition or fees for not to exceed 10 semesters of undergraduate instruction, or the equivalent thereof, at all such institutions.

(c) Subject to appropriations therefor, any Kansas educational institution, at which enrollment, without charge of tuition or fees, of a prisoner of war or a dependent or spouse is provided for under subsection (b), may file a claim with the state board for reimbursement of the amount of such tuition and fees. The state board shall include in its budget estimates pursuant to K.S.A. 75-3717, and amendments thereto, a request for appropriations to cover tuition and fee claims pursuant to this section. 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 entitled. 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 dependents or spouses or prisoners of war are enrolled for the total amount of tuition and fees not charged 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 any such eligible dependents or spouses or prisoners of war are enrolled. If an eligible dependent or spouse or prisoner of war 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 dependent or spouse or prisoner of war would otherwise qualify to have refunded, not to exceed the amount of the payment made by the state in behalf of such dependent or spouse or prisoner of war 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 state general fund.

(d) The state board shall adopt rules and regulations for administration of the provisions of this section and shall determine the qualification of persons as dependents and spouses of public safety officers or United States military personnel and the eligibility of such persons for the benefits provided for under this section.

Sec. 44. K.S.A. 2010 Supp. 75-53,112 is hereby amended to read as follows: 75-53,112. As used in the Kansas foster child educational assistance act:

(a) "Kansas educational institution" means and includes any ~~area vocational school, area vocational-technical school,~~ community college, the municipal university, state educational institution, *the institute of technology at Washburn university* or technical college.

(b) "Eligible foster child" means anyone: (1) Who (A) is in the custody of the secretary and in a foster care placement on the date such child attained 18 years of age, (B) has been released from the custody of the secretary prior to attaining 18 years of age, after having graduated from a high school or fulfilled the requirements for a general educational development (GED) certificate while in foster care placement and the custody of the secretary, (C) is adopted from a foster care placement on or after such child's 16th birthday, or (D) left a foster care placement subject to a guardianship under chapter 38 or 59 of the Kansas Statutes Annotated on or after such child's 16th birthday; and

(2) who enrolls in a Kansas educational institution on or after July 1, 2006.

(c) "Kansas foster child educational assistance program" or "program" means the program established pursuant to the provisions of the Kansas foster child educational assistance act which shall provide for undergraduate enrollment of eligible foster children through the semester the eligible foster child attains 23 years of age.

(d) "Educational program" means a program which is offered and maintained by a Kansas educational institution and leads to the award of a certificate, diploma or degree upon satisfactory completion of course work requirements.

(e) "Secretary" means the secretary of social and rehabilitation services.

Sec. 45. K.S.A. 2010 Supp. 75-6609 is hereby amended to read as follows: 75-6609. (a) When used in this section, "surplus real estate" means real estate which is no longer needed by the state agency which owns such real estate as determined in accordance with this section.

(b) (1) The secretary of administration shall develop criteria for the identification of surplus real estate, including but not limited to, a review of any legal restrictions associated with the real estate and the reasons for the state agency to keep the real estate. In accordance with such criteria, the secretary shall assist state agencies in the identification of surplus real estate. The secretary of administration shall periodically review the status of all real estate of state agencies subject to this section to determine if any of the real estate owned by state agencies is potentially surplus real estate. If any real estate owned by a state agency is determined by the secretary of administration, in consultation with the head of the state agency, to be surplus real estate in accordance with the criteria developed under subsection (a), then the secretary of administration

shall recommend to the governor that such real estate be sold under the procedures prescribed by this section.

(2) The secretary of administration shall develop guidelines for the sale of surplus real estate. In accordance with such guidelines and upon the approval of the governor, after consultation with the head of the state agency which owns such surplus real estate, after consultation with the joint committee on state building construction and after approval by the state finance council under subsection (c), the secretary may offer such property for sale by one of the following means: (A) Public auction; (B) by listing the surplus property with a licensed real estate broker or salesperson; or (C) by sealed bid. Subject to the approval of the state finance council as required by subsection (c), the secretary of administration may sell surplus real estate and any improvements thereon on behalf of the state agency which owns such property.

(c) Prior to the sale of any surplus real estate under subsection (b), the state finance council shall approve the sale, which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711, and amendments thereto. The matter may be submitted to the state finance council for approval at any time, including periods of time during which the legislature is in session.

(d) Prior to offering any real estate for sale, such property shall be appraised pursuant to K.S.A. 75-3043a, and amendments thereto, unless the appraisal is waived as provided in this subsection. The secretary of administration may waive the requirement for appraisal for any parcel of surplus real estate that is to be sold at public auction under this section if the secretary of administration determines that it is in the best interests of the state to waive the requirement for appraisal for such parcel of surplus real estate. The costs of any such appraisal may be paid from the proceeds of the sale.

(e) Conveyance of title in surplus real estate offered for sale by the secretary of administration shall be executed on behalf of the state agency by the secretary of administration. The deed for the conveyance may be by warranty deed or by quitclaim deed as determined to be in the best interests of the state by the secretary of administration in consultation with the head of the state agency which owns the surplus real estate.

(f) (1) Any proceeds from the sale of surplus real estate and any improvements thereon, after deduction of the expenses of such sale and any cost of appraisal of the surplus real estate, shall be deposited in the state treasury as prescribed by this subsection, unless otherwise authorized by law. On and after the effective date of this act, 20% of the proceeds from each such sale deposited in the state treasury shall be credited to the surplus real estate fund or another appropriate special revenue fund of the state agency which owned the surplus real estate, as is prescribed by law or as may be determined by the state agency, unless otherwise required by state or federal law or by the limitations or restrictions of the state's title to the real estate being sold. In the case of proceeds from the sale of surplus real estate at a state mental health institution or a state mental retardation institution, such portion of the proceeds shall be credited to the client benefit fund of such institution or to another special revenue fund of such institution for (A) rehabilitation and repair or other capital improvements for such institution, or (B) one-time expenditures for community mental health organizations if the real estate sold was at a state mental health institution or for community developmental disabilities organizations if the real estate sold was at a state mental

retardation institution, and, in any such case, shall be expended in accordance with the provisions of appropriation acts. The remaining 80% of the proceeds from each such sale deposited in the state treasury shall be credited to the state general fund.

(2) The amount of expenses and the cost of appraisal for each sale of surplus real estate pursuant to this section shall be transferred and credited to the property contingency fund created under K.S.A. 75-3652, and amendments thereto, and may be expended for any operations of the department of administration.

(3) Any state agency owning real estate may apply to the director of accounts and reports to establish a surplus real estate special revenue fund in the state treasury. Subject to the provisions of appropriation acts, moneys in a surplus real estate special revenue fund may be expended for the operating expenditures of the state agency.

(g) Any sale of property by the secretary of transportation pursuant to K.S.A. 68-413, and amendments thereto, shall not be subject to the provisions of this section. The provisions of this section shall not be applicable to real estate given as an endowment, bequest, or gift to a state educational institution as defined in ~~subsection (g) of~~ K.S.A. 72-4412, and amendments thereto, or to the university of Kansas medical center.

(h) Sale of the Olathe travel information center shall not be subject to the provisions of this section.

Sec. 46. K.S.A. 2010 Supp. 75-7222 is hereby amended to read as follows: 75-7222. As used in this act, unless the context requires otherwise:

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

(b) "Hospital" means a licensed hospital, as defined in K.S.A. 65-425, and amendments thereto.

(c) "Library" means: (1) The state library; (2) any public library established and operating under the laws of this state; or (3) any regional system of cooperating libraries, as defined in K.S.A. 75-2548, and amendments thereto.

(d) "Network" means the KAN-ED network created pursuant to this act.

(e) "School" means: (1) Any unified school district, school district interlocal cooperative, school district cooperative or nonpublic school accredited by the state board of education; or (2) any community college, technical college, ~~area vocational school, area vocational-technical school~~ *the institute of technology at Washburn university* or Kansas educational institution, as defined in K.S.A. 74-32,120, and amendments thereto.

Sec. 47. K.S.A. 76-6a13 is hereby amended to read as follows: 76-6a13. As used in this act, unless the context otherwise requires:

(a) "Board" means the state board of regents or the board of regents of a municipal university or the ~~board of control of the Northwest Kansas area vocational-technical school governing board of the northwest Kansas technical college~~ or the ~~board of control of the North Central Kansas area vocational-technical school governing board of the north central Kansas technical college~~ or the board of trustees of any community college.

(b) "Institution" means and includes any state educational institution operated and managed under the control and supervision of the state board of regents, any municipal university organized under the laws of Kansas, any community college, the ~~Northwest Kansas area vocational-technical school, and the North Central Kansas area vocational-technical school.~~ *northwest Kansas technical college and the north central Kansas technical college.*

(c) "Building," when heretofore or hereafter acquired or constructed by the state board of regents for any state educational institution under the control and supervision of the state board of regents, means and includes one or more dormitories, kitchens, dining halls, student union buildings, field houses, student hospitals, libraries, on-campus parking, hospital buildings or facilities for the university of Kansas medical center, including outpatient treatment or support facilities and acquisition of any real estate therefor, additions heretofore or hereafter erected in connection therewith, or rehabilitation or renovation of an existing building, or any combination thereof, or any stadium, structure or facility when the same is deemed necessary by the state board of regents to carry out the purposes of the institution, or additions heretofore or hereafter erected in connection with such stadium, structure or facility. The state board of regents shall not issue any revenue bonds for acquisition or construction of any building, structure or facility or additions erected in connection therewith, or for rehabilitation or renovation of an existing building, as authorized by this section, unless such acquisition, construction or rehabilitation or renovation has been authorized by appropriation or other act of the legislature and the state board of regents has first advised and consulted on such acquisition, construction or rehabilitation or renovation with the joint committee on state building construction.

(d) "Revenue bonds" means bonds issued by a board under authority of K.S.A. 76-6a13 et seq., and amendments thereto, and payable as to both principal and interest solely and only out of (1) the income and revenues arising from the operation of the building for which such bonds are issued, or (2) in the case of a building to be constructed for an institution under the control and supervision of the state board of regents and upon a determination by the state board of regents that the best interests of the state and the institution will be served thereby, the revenues derived from student fees levied for this purpose or for other bonds after such other bonds are retired, or both, (3) any combination of the revenues described in clause (1) or (2), and (4) in addition to the revenues described in clauses (1), (2) or (3), in the discretion of the board, out of one or both of the following additional sources: (A) The proceeds of any grant in aid of such project which may be received from any source, and (B) the net income and revenues arising from the operation of another building already owned and operated by the board and located on the same campus of the institution where the building for which bonds are to be issued will be located.

(e) "Net income and revenue" means the income arising from the operation of a building remaining after providing for the costs of operation of such building and the costs of maintenance thereof.

(f) "Building," when heretofore or hereafter acquired or constructed by a board other than the state board of regents, means and includes one or more dormitories, kitchens, dining halls, student union buildings, field houses, student hospitals, libraries, on-campus parking or additions heretofore or hereafter erected in connection therewith, or any combination thereof.

Sec. 48. K.S.A. 2010 Supp. 76-768 is hereby amended to read as follows: 76-768.
(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, *the institute of technology at Washburn university* and private institutions of postsecondary education.

Sec. 49. K.S.A. 2010 Supp. 76-769 is hereby amended to read as follows: 76-769.

(a) As used in this section:

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

(2) "Professional services" means professional services as defined in K.S.A. 75-37,131, and amendments thereto.

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

(4) (A) "Services" means any professional services or other contractual services.

(B) "Services" does not mean architectural services, engineering services, *construction*, construction management or ancillary technical services.

(5) "Municipality" means any political or taxing subdivision of the state and any agency or instrumentality of a political or taxing subdivision of the state.

(6) "Lease of real property" means:

(A) Any agreement to lease real property: (1) Between a state educational institution and one or more of its affiliated corporations; (2) between a state educational institution and a municipality; (3) between a state educational institution and any other party for vacant space that is less than 10,000 square feet; or (4) between a state educational institution and any other party for a term not to exceed 24 months.

(B) "Lease of real property" includes any agreement to lease real property from a state educational institution and any agreement to lease real property to a state educational institution.

~~(C)~~ (b) Any supplies, materials, equipment, goods, property, printing or services may be acquired by a state educational institution, and any lease of real property may be entered into by a state educational institution. Any such acquisition or lease shall be in accordance with policies adopted by the state board and shall not be subject to K.S.A. 75-1005, 75-3737a through 75-3741b, 75-3742 through 75-3744 and 75-37,130 through 75-37,134, and amendments thereto, or any rules and regulations or policies adopted thereunder. Nothing in this subsection shall be construed as prohibiting a state educational institution from using contracts established or services offered by the director of purchases.

~~(b)~~ (c) The acquisition of any articles or products produced by inmates in the custody of the secretary of corrections that may be required by a state educational institution may be acquired in accordance with policies adopted by the state board. Any such acquisition shall not be subject to the provisions of the prison-made goods act of Kansas requiring any such acquisition to be made from the secretary of corrections as provided in K.S.A. 75-5273 through 75-5282, and amendments thereto, or any rules and regulations or policies adopted thereunder.";

And by renumbering sections accordingly;

Also on page 11, by striking all in line 39;

On page 12, by striking all in lines 1 and 2, and inserting:

"Sec. 50. K.S.A. 71-601, 71-604, 71-609, 71-609a, 71-613, 71-613a, 71-614, 71-620, 71-701, 71-802, 71-1201, 71-1706, 72-4428, 72-4435, 72-4440, 72-4441, 72-4442, 72-4453, 72-4454, 72-4468, 72-4480, 72-6214, 72-6503, 72-6803, 73-1218, 74-3229a and 76-6a13 and K.S.A. 2010 Supp. 71-201, 71-1507, 72-4412, 72-4415, 72-4430, 72-4431, 72-4432, 72-4433, 72-4450, 72-4466, 72-4470a, 72-4481, 73-1217, 74-3201b, 74-32,146, 74-32,151, 75-4364, 75-53,112, 75-6609, 75-7222, 76-768, 76-769 and 76-781 are hereby repealed.";

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 1, by striking "technical"; also in line 1, after "education;" by inserting "relating to technical education;"; by striking all in lines 3 through 5 and inserting "K.S.A. 71-601, 71-604, 71-609, 71-609a, 71-614, 71-620, 71-701, 71-802, 71-1201, 72-4440, 72-4441, 72-4442, 72-4453, 72-4454, 72-4480, 72-6214, 72-6503, 73-1218 and 76-6a13 and K.S.A. 2010 Supp. 71-201, 71-1507, 72-4412, 72-4415, 72-4450, 72-4466, 72-4470a, 72-4481, 73-1217, 74-3201b, 74-32,146, 74-32,151, 75-4364, 75-53,112, 75-6609, 75-7222, 76-768 and 76-769 and repealing the existing sections; also repealing K.S.A. 71-613, 71-613a, 71-1706, 72-4428, 72-4435, 72-4468, 72-6803 and 74-3229a and K.S.A. 2010 Supp. 72-4430, 72-4431, 72-4432, 72-4433 and 76-781.";

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

CLAY AURAND

STEVE HUBERT

JIM WARD

Conferees on part of House

JEAN KURTIS SCHODORF

JOHN VRATIL

ANTHONY HENSLEY

Conferees on part of Senate

Senator Schodorf moved the Senate adopt the Conference Committee Report on **SB 143**.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 196** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, printed as House Substitute for SB 196, as

amended by House Committee of the Whole (Corrected), as follows:

On page 1, after line 31, by inserting the following:

"(c) The secretary shall annually make a report on activities of the department related to administration of the job creation program fund and the funding of projects therefor. Such report shall contain specific and aggregate information regarding all expenditures from the fund, projects receiving funds, the amount of funds expended for each project, the reason and purpose described in subsections (a)(1) through (a)(8) for which funding was approved for each project, the number and characteristics of jobs created or retained in Kansas, the number of such jobs created or retained which do not continue to exist and the circumstances and effect of such discontinuance, and any other accomplishments related thereto. The secretary shall present such report to the president of the senate, the speaker of the house, the senate minority leader, the house minority leader, the house committee on taxation, the senate committee on assessment and taxation, the senate committee on commerce and the house committee on commerce and economic development during January of each year.";

On page 7, by striking all in line 20, and inserting the following:

"(a) (1) The secretary shall determine and from time to time shall redetermine the rate at which moneys shall be credited to the IMPACT program repayment fund in order to satisfy all bond repayment obligations which have been incurred to finance program costs for IMPACT programs, which shall be referred to as the debt service rate, and the rate at which moneys shall be credited to the IMPACT program services fund in order to finance program costs that are not financed by bonds, which shall be referred to as the direct funding rate. The total of the debt service rate and the direct funding rate shall be the combined rate. Each rate so determined shall be certified to the secretary of revenue. The combined rate determined under this subsection shall not exceed 2%.

(2) Upon receipt of the rates determined and certified under subsection (a)(1), the secretary of revenue shall apply daily the combined rate to that portion of the moneys withheld from the wages of individuals and collected under the Kansas withholding and declaration of estimated tax act K.S.A. 79-3294 et seq., and amendments thereto. The amount so determined shall be credited as follows: (A) The portion attributable to the debt service rate shall be credited to the IMPACT program repayment fund; and (B) the remaining portion shall be credited to the IMPACT program services fund.

(3) The aggregate of all amounts credited to the IMPACT program repayment fund under this section during any fiscal year to pay bond repayment obligations on bonds to finance major project investments shall not exceed the amount which results when the rate of 2% is applied to all moneys withheld from the wages of individuals and received under the Kansas withholding and declaration of estimated tax act.

(4) The provisions of this subsection shall remain in effect prior to July 1, 2012.

(b) Commencing July 1, 2012, the secretary of";

Also on page 7, in line 29, by striking "(b)" and inserting "(c)";

On page 8, by striking all in lines 40 through 43;

By striking all on pages 9 through 14;

On page 15, by striking all in lines 1 through 34;

And by renumbering sections accordingly;

On page 27, in line 41, by striking "74-50,115(c)" and inserting "74-50,115(e)";

On page 51, in line 23, by striking all after "74-50,110,";

One page 1, in the title, in line 2, by striking all after the semicolon; in line 3, by

striking all before "income"; in line 6, by striking all after "74-50,110,"; in line 7, by striking "74-50,213,";

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

RICHARD CARLSON

MARVIN G. KLEEB

NILE DILLMORE

Conferees on part of House

PAT APPLE

JEFF KING

G. THOMAS HOLLAND II

Conferees on part of Senate

Senator Apple moved the Senate adopt the Conference Committee Report on **H Sub for SB 196**.

On roll call, the vote was: Yeas 35, Nays 3, Present and Passing 1, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Francisco, Hensley, Holland.

Present and Passing: Haley.

Absent or Not Voting: Donovan.

The Conference Committee Report was adopted.

COMMITTEE OF THE WHOLE

On motion of Senator Emler, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Schodorf in the chair.

On motion of Senator Schodorf the following report was adopted:

HB 2336 be amended by adoption of the committee amendments, and the bill be passed as amended.

SB 248 be passed over and retain a place on the calendar.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Emler an emergency was declared by a 2/3 constitutional majority, and **HB 2336** was advanced to Final Action and roll call.

HB 2336, AN ACT establishing the Kansas employment first initiative act and creating the Kansas employment first oversight commission.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed, as amended.

On motion of Senator Emler, the Senate adjourned until 10:00 a.m. Wednesday, May 11, 2011.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

