MINUTES

JOINT COMMITTEE ON STATE BUILDING CONSTRUCTION

November 29-30, 2007
Room 123-S—Statehouse

Members Present

Representative Joe Humerickhouse, Chairperson
Senator Pat Apple
Senator Greta Goodwin
Senator Laura Kelly
Senator Steve Morris
Senator Dwayne Umbarger
Representative Steve Brunk
Representative Bill Feuerborn
Representative Bob Grant

Staff Present

Audrey Dunkel, Kansas Legislative Research Department
Kimbra Caywood McCarthy, Kansas Legislative Research Department
Amy Van House, Kansas Legislative Research Department
Mike Corrigan, Office of the Revisor of Statutes
Theresa Kiernan, Office of the Revisor of Statutes
Helen Abramson, Committee Assistant

Conferees

Richard Gaito, Department of Administration
Joseph Molina, Attorney General's Office
Dr. Ed Rice, Kansas State University
Tim Weiser, Kansas State University
Steve Martini, Kansas State University
Brigadier General Debbie Rose, Adjutant General's Office
Lt. Col. Eric Blankenship, Adjutant General's Office
Richard Cram, Kansas Department of Revenue
Steve Weatherford, Kansas Development of Finance Authority
Diane C. Duffy, Board of Regents/Universities
Dr. Robert J. Edleston, Kansas Association of Technical Schools and Colleges
Marilyn Jacobson, Department of Administration
Eric King, Board of Regents

Others Attending

See attached list.

Thursday, November 29
Morning Session

Chairman Humerickhouse called the meeting to order at 10:10 a.m.

Richard Gaito, Deputy Director, Division of Facilities Management, Department of Administration (DOA), presented a five-year lease at 209 E. Williams, Wichita, for the Kansas Department of Labor (DOL) (Attachment 1). The proposed lease allows for the consolidation of two current DOL facilities in Wichita (leased space at 110 E. Waterman, Wichita, and DOL-owned space at 402 E. Second Street, Wichita). However, the current facility will be sold once the DOL offices are consolidated in the new facility. The DOL advertised in the *Wichita Eagle* in June 2007 for office space for five years. It received three proposals. The lease before the Committee is the lowest total cost lease presented and meets the requirements of the bid. This is a full-service lease at $14.39 per square foot (s.f.), except for the real estate taxes and insurance. Both of these items have a base line calculation in the base lease; however, the DOL will be responsible for any increases above the base line. The lease has two one-year renewal options at a rate of $17.39 per s.f. that includes parking for 22 vehicles. The proposed lease exceeds the space standards of 250 s.f. per full-time employee (FTE). The justification for the increased space is related to the workers compensation program requirements, such as hearing rooms, meeting rooms, and related public areas. The DOL appears to have followed all recent procedures and requirements in procurement of the lease. The lease rate is favorable to the State of Kansas and is supported by the DOA except for exceeding the space standards.

Committee discussion followed concerning the sale of the owned lease facility, whether space standards need to be re-evaluated, and the amount of space advertised compared to the amount proposed.

Senator Kelly proposed that the office space and common space be shown separately on the lease forms and Director Gaito said the DOA would consider this request for future leases.

Representative Grant moved that the Committee review favorably the five-year lease for the Department of Labor at 209 E. Williams in Wichita, at an annual cost of $14.39 per s.f. Representative Brunk seconded. Motion carried.

Joseph Molina, Assistant Attorney General, Consumer Protection Division for the Office of the Attorney General, provided information regarding the sale of a single-family residence, located at 702 Watson Avenue, Topeka, Kansas, which was acquired by the Attorney General through a judgment and is now considered state surplus property (Attachment 2). Originally, there were three houses involved, but the other two houses were subject to federal IRS liens.

The property in question is a two-story home with approximately 1,331 livable square feet. It has functioned as a single-family residence with three bedrooms and two full baths. According to the Shawnee County Appraiser's Office, it is in fair condition with a 2007 county appraisal of $69,000. This property was occupied from a point prior to its seizure. Since November 3, 2007, the home has been unoccupied. The Attorney General's Office has taken over utility payments and has secured the premises. There are three options for disposing of state surplus property according to KSA 75-6609: going through a licensed real estate agency, through a sealed bid, or by a public auction. The

Attorney General's Office has contacted the Office of the Governor and requested its approval, as required by statute. The Office of the Governor is reviewing the Attorney General's request. The Attorney General's office is working closely with the Department of Administration Division of Facilities Management to ensure that this sale is handled in the best interest of the state. The Attorney General's Office also contacted the State Finance Council to discuss the sale of this property and request its approval. The date for that consultation is pending. At this time, the Attorney General's Office is formally advising the Joint Committee on State Building Construction of its intent to liquidate the described property so that investigative fee expenses (outside expenses incurred) can be reimbursed to the Attorney General's operating fund. A public auction is being considered, as it is the most expedient.

Representative Brunk moved that the Committee review favorably the Attorney General's request regarding the sale of state surplus property located at 702 Watson Avenue in Topeka. Senator Goodwin seconded. Motion carried.

Dr. Ed Rice, Associate Vice-President of Administration and Finance, Kansas State University (KSU), addressed the Committee regarding two projects approved by the Board of Regents: Bramlage Coliseum expansion and the Chester E. Peters Recreation Complex addition. Program statements for these two projects were distributed (Attachments 3 and 4).

Tim Weiser, Athletic Director, Kansas State University, decided several years ago that it was time for the University to look at some of the long-term facility needs. An outside consultant helped put together what the University considered to be a long-term master plan for facilities. Mr. Weiser remarked that he believes the University's facilities are unique and that very few schools in the country have both a football and a basketball facility so close in proximity. That gave the University an opportunity to do some things that would not be able to be done otherwise. The University really did not have a front door or a welcome feeling to both the facilities. It was decided that a two-cornerstone approach to the project would help from an esthetic standpoint, and also help capture some of the uniqueness of the University's facilities and meet some of the long-term sports' needs. Considered first was the men's and women's basketball teams. The University knew there was a Title IX issue with the women's locker room. In reality, the University needs to embark on a full renovation and a new facility. The first idea considered was to build a practice facility onto the existing basketball facility, which would be a single oversized practice gymnasium. That would give both of the teams the opportunity to practice when there are graduation ceremonies, Landon lectures, and other things. Included in the project would be new locker rooms for both teams, offices, training rooms, and a strength and conditioning room. The crowning jewel of this facility would emphasize the Kansas State University athletics story. There is a Hall of Fame that recognizes individuals that have done some amazing things, but there is a need to have a facility and an area where young kids, grandkids, and classes can gather to look at the evolution of Kansas State Athletics, which is referred to as "The Wildcat Experience." It would be a room where there would be interactive videos and a lot of different features that would attract younger audiences, as well as also honoring the history and tradition that the University has had with all of its sports, not just basketball and football. The ticket office will be closest to the parking lot for easy access. The ticket and development offices would be part of it. There also will be a retail store. All of this will be the hub of a football or basketball game experience.

The Bill Snyder Family Stadium has not been immune from the demand for improvements. One of the things known for some time is that there are some outdated facilities on the west side. Restrooms and concessions do not give an inviting look and are not large enough to accommodate the growing fan base. Three of the existing four buildings will be torn down and the footprint will be pushed farther out to the west, Moore Concourse can be gained on game day and built up in a way to make people think they are walking into a special place. Certainly, limestone will be a big part of this project. Emphasis will be placed on matching the rest of the campus' limestone. Mr. Weiser stated that the exciting thing for him is that this plan is a long-term plan and gives the flexibility of going into other phases of the project as successes occur with private fund raising.

Mr. Weiser informed the Committee that the $45 million Bramlage Coliseum project will be funded by revenue bonds issued by the Kansas Development Finance Authority (KDFA). The Department of Intercollegiate Athletics will pay all additional utilities, custodial, routine and special maintenance costs associated with the project. There also is a deferred maintenance reserve. The time-line for this project is October 2007–October 2010.

Steve Martini, Recreational Services Director, Kansas State University, presented testimony and a preliminary program for the $24 million Chester E. Peters Recreation Complex addition at Kansas State University. Mr. Martini gave an overview of the 27-year history of the recreation complex. The time-line for this project is November 2007–October 2011. The recreation complex addition totals 88,400 s.f. The project will be funded by revenue bonds to be repaid with a dedicated student fee. Student fees will increase. Consistent with Board policy, operating and maintenance costs associated with the addition will be funded by restricted fee revenue generated by the facility.

The Addition will provide:

- 10,000 square feet of additional cardio and weight training area;
- A longer running track by 1/5 mile;
- Multi-activity courts;
- An area dedicated to an indoor rock climbing wall and bouldering rocks;
- A multi-purpose room that can be divided into two or four separate areas;
- A lounge with flat screen television, wireless Internet access, and seating;
- A new southern entrance to the recreation complex;
- A personal training studio; and
- Renovation and repairs throughout the current recreation complex.

These items are not included in the Deferred Maintenance funding.

Chairman Humerickhouse recognized Brigadier General Debbie Rose, Adjutant General's Office, who introduced Lt. Col. Eric Blankenship. He briefed the Committee concerning the Adjutant General's Office's five-year capital budget plan 2008–2013 (Attachment 5).

In FY 2008, the Adjutant General's Office requests $2,091,907 for armory bond debt service. The FY 2009 request is composed of three projects: $4,133,000 for the Great Plains Regional Training Center #1, $2,838,945 for armory bond debt service, and $336,753 for a Liberal motor vehicle storage compound. Project requests for the out-years were for Great Plains Regional Training Center #2, #3, and #4, armory bond debt service, and Olathe and Hutchinson asphalt repairs. However, when the armory bond debt service was originally printed for this presentation, the primary debt schedule did not show the debt service on one of the Adjutant General's Office projects. For that reason, another $182,000 needs to be added to the amount shown on the handout. All projects are to be funded by the State General Fund.

Brigadier General Rose remarked that last year the Adjutant General's Office received money for Salina, which is the hub of the Great Plains Joint Regional Training Center. The Crisis Center is being built in Salina along with some other joint facilities. Four additional hubs were discussed last year, but not funded, and are included in the five-year capital improvement budget. Currently, the agency is giving proposals to the communities as to what the agency is seeking. Whoever makes the best offer is where the first one will be located. The agency is proposing a training center in each quadrant.

Senator Umbarger noted that last year there were hearings in the Senate Ways and Means Committee and the House Appropriations Committee concerning training centers. With all the disasters experienced this past year, the need for regional training centers in four quadrants of the state makes good sense.

Brigadier General Rose stated that these training centers will be used by people all over the country, not just for Kansas. The primary users for the Salina facility will be the first responders of Kansas because it is being built with money from the State General Fund. But there are other for-profit agencies and providers who want to be a part of the venues that will help with sustaining costs. In addition, bringing in people from outside the state also will bring in some funds. The agency wants to make the cost to first responders in Kansas very minimal.

Kirk Thompson, Deputy Director, Kansas Bureau of Investigation (KBI), introduced Robert Blecka, Director, KBI.

Deputy Director Thompson conducted a PowerPoint presentation of the KBI's five-year capital improvement budget plan. Director Thompson remarked that this Committee knows that the KBI has faced a chronic space problem for a number of years. During FY 2007, the Legislature appropriated funding for two major projects. Those two projects together have a continuing positive effect on those space concerns. Completed last summer was an appropriation of $1,074,275 for a major remodeling project at the KBI regional office in Great Bend. Approximately 45,000 s.f. of vacant area on the second floor of that facility was transformed into additional forensic laboratory space. The additional space allowed the KBI to expand the DNA operations and improve laboratory services to western Kansas law enforcement agencies. The expansion also allowed the agency to nearly meet the American Society of Crime Laboratory Directors' standards of 1,000 s.f. of work space per scientist. Prior to the renovation, the space ratio was 550 s.f. per scientist. Currently, the ratio is 975 s.f. per scientist. Also, in FY 2007, the Legislature approved funding to acquire the AMA insurance building, which is located adjacent to the KBI headquarters in Topeka. The building was purchased September 6, and was in full operation by October. The appropriation of $1,100,000 gave the KBI an additional 12,970 square feet of office space and became the home for the information services division and its 70-plus employees. By moving the information services division to this new building, the agency was able to make a series of moves that ultimately resulted in an increase of 3,500 s.f. of additional laboratory space and much needed additional space for the field investigation division and the information technology section. By relocating KBI records and identification units to the new annex, space was available to move the field investigation division personnel from their cramped quarters on the second floor of the headquarters building to a more suitable space on the third floor. By relocating the incident reporting unit and licensing and restoration unit to the annex, space became available to move the information technology section to more suitable space. The space that was vacated for the field investigation division was transformed into an area that now houses the latent print, question documents, and laboratory records unit. These moves and renovations have all been completed and the units are fully functional in their new spaces. The space that was made available on the first floor when the latent prints, question documents, and records unit moved to the second floor is presently under extension. This is part of the agency's expansion for the DNA processing toxicology areas. This remodeling is being handled in two major phases to limit the disruption to laboratory services to the local agency. This entire renovation project is expected to be completed by May 2008. Upon completion of this project and renovation, the space ratio per scientist at the headquarters' laboratory will improve from the current 375 square feet per scientist to about 450 square feet per scientist (the DOJ standard is about 1,000 square feet per scientist).

In addition to the previously mentioned space increase, the KBI was fortunate to receive an appropriation of $100,000 for 2007 to make critical repairs for a parking structure and a handicapped access ramp. The repairs were undertaken to stop the leakage of water and to replace the handicap ramp.

For FY 2008, the agency plans to use the additional $100,000 to help the KBI address some of its pressing building maintenance issues. In FY 2008, the agency plans to use the funding to correct fee deficiencies in the data center on the third floor and hopes to address a serious ventilation issue in the sub-basement. KBI is working with engineers from the Division of Facilities Management and private vendors to craft cost effective solutions to those projects. At this time, it appears the HBA fee solution will be approximately $84,000 and the ventilation solution will be approximately $64,000. For FY 2009, the additional $100,000 will be used to complete the sub-basement ventilation project, make extensive repairs, replace damaged windows, and begin renovation of the public entrance at the headquarters' facility.

The KBI is requesting an additional $100,000 in FY 2009 to replace an aging ancillary power generator at headquarters. This generator was installed in 1984 and is at the end of its life cycle. The generator is used to power the KBI's data system as well as critical laboratory and administrative systems within the facilities. In FY 2010, the KBI will request an additional $200,000 to replace or upgrade the 25-year-old HVAC system at its headquarters. The current system fails frequently and maintenance costs are excessive. Twenty-eight window units are used throughout the building to supplement the aging HVAC system.

The KBI operates a satellite laboratory at Kansas City Kansas Community College. Evidence submissions at the laboratory in the past year increased more than 300 percent. Additional secure evidence storage is needed at this facility. A cost estimate of $142,000 will expand those existing evidence vault areas from 142 square feet to 500 square feet.

The KBI requests $136,500 in FY 2009 to make needed repairs to a portion of the Great Bend facility that was not part of the FY 2007 remodeling project. The funding will be utilized to make repairs to the facility's roof, non-functioning humidifiers, carpeting, and wall damage; install additional security lighting and cameras; fix parking lot drainage issues; and replace a HVACA condensing unit that broke down almost every other week last summer.

Deputy Director Kirk Thompson informed the Committee that the KBI is actually a "squatter" on the Kansas City Community College Campus. The original lease was $1 and the area was given for KBI's use. However, there is not any more space and the only way to keep the laboratory facility there is to expand outward. This will have to be done in conjunction with the Community College, which is in favor of this expansion.

Committee discussion followed concerning moving up the date for the replacement of the HVAC unit at the headquarters. It would be more cost effective to do away with the 28 window units being used, especially if the replacement could be completed when the data center portion of the HVAC system is replaced.

Representative Grant moved that the open meeting of the Joint Committee on State Building Construction be recessed for a closed, executive meeting pursuant to subsection (b) of KSA 175-4319, as amended by section 177 of the 2007 Session Laws of Kansas*, to discuss matters relating to preliminary discussions concerning acquisition of real estate by the Kansas Bureau of Investigation. The Joint Committee on State Building Construction shall resume the open meeting in Room 123-S of the Statehouse at 11:55 a.m. This motion, if adopted, shall be recorded in the minutes of the Joint Committee on State Building Construction and shall be maintained as a part of the permanent records of the Committee. Adopted November 29, 2007, at 11:25 a.m. Senator Umbarger seconded. <u>Motion carried</u>.*

At 11:55 a.m., Chairman Humerickhouse recessed the meeting until 1:30 p.m.

Afternoon Session

Chairman Humerickhouse called the meeting to order at 1:45 p.m.

Richard Cram, Department of Revenue (DOR), referenced HB 2237, which included creation of a new tax credit based on a percentage of certain contributions made on or after July 1, 2008, for the purpose of addressing deferred maintenance needs of certain community colleges, technical colleges, and postsecondary education institutions. Attached to his written testimony was copy of the DOR's explanation and "Question and Answers" concerning the bill (Attachment 6). A copy of the "Questions and Answers" was sent to all affected universities, community colleges, and technical schools.

The DOR scheduled a meeting with the Board of Regents (Regents) in July 2007 and invited all of the participants, who provided valuable comments. Those comments were addressed, and the DOR circulated revised draft regulations for further feedback. The DOR will respond to any future concerns with the proposed regulations that it receives from interested institutional staff. In late August 2007, the DOR submitted proposed regulations to the Department of Administration (DOA) and Attorney General (AG) in order for the regulations to be in place prior to the July 1, 2008 implementation date. Depending on concerns that the AG may raise with the proposed regulations, there could be legislative issues that need to be addressed in the 2008 Session. The DOR will bring those issues forward as early as possible in the session, if there are any. The DOR believes that it has worked out a system for implementing a tax credit with the participants. That should be in place well before the program actually kicks off before July 1, 2008.

One concern about the tax credit language in HB 2237 was that the endowment associations or foundations were likely to be marketing the tax credit, and soliciting and receiving the contributions, although the legislation states that the contributions qualifying for the tax credit were to be made to the educational institutions themselves. To address this concern, the DOR drafted proposed regulation 92-12-140 to define "contributor" to include someone making a contribution to an education institution or the endowment foundation or association. The regulation makes clear that contributions for deferred maintenance will quality for the tax credit, whether made directly to the institution or to the endowment foundation or association.

Diane C. Duffy, Vice President, Finance and Administration, Kansas Board of Regents (BOR), presented an update on the implementation of HB 2237, the five-year higher education infrastructure funding plan, and an overview of the Board's FY 2009 budget request and legislative initiatives relating to deferred and annual maintenance (Attachment 7). The Regents' Board had a special budget session this week to fine-tune some of the endorsements in its recommendations to the Building Committee. Several Regents wanted to express how grateful the Regents' Board is for the funding that was put in place, all the time and effort that was put in during the prior session, and for the legislation that was passed.

Ms. Duffy reminded the Joint Committee of two other significant policy changes articulated in HB 2237. First, last January the Regents' Board adopted a significant policy change requiring that maintenance costs for new privately financed buildings must be funded from gifts or existing University resources in an effort to help alleviate any future state burden. In the past, if a private gift was donated for the construction of a new building, the agency was requesting the state fund the operating and future maintenance. There will be no requests to the state for the operating/

maintenance plans associated with new privately financed buildings without the Board's approval. The Legislature included this policy change in the legislation. Second, in addition to addressing the deferred maintenance problems at the six state universities, this legislation, for the first time, provided state resources targeted at the deferred maintenance needs of the 14 community and technical colleges and Washburn University. The state universities, 19 community colleges, and Washburn University documented well over a billion dollars in deferred maintenance needs. State policy makers specifically recognized the capital and deferred maintenance needs across all public colleges and universities. This is the first time that the Legislature has done anything on the capital side of the budget concerning community and technical colleges.

The legislation includes three financing components that will be implemented over the next five years:

- Direct appropriation of state funds of $90 million and an estimated $44 million in interest earnings from University funds to begin to address the documented $663 million backlog of deferred maintenance projects at the state universities;

- State funded tax credits intended to generate up to $158 million in private contributions to the state's six universities, Washburn University, the 19 colleges, and the five technical colleges; and

- $100 million in interest-free bonding authority available to Washburn University, the 19 community colleges, and the five technical colleges. The principal and interest for the bonds will be paid by the SGF, with the institutions reimbursing the SGF for the principal portion of the payment each year.

Vice-President Duffy stated that the state's six universities have now initiated work on 50 vitally important building maintenance projects on campuses across the state. Also, although the tax credits do not become available until July 1, 2008, the Regents' Board office has been working with Secretary Wagnon and her staff, along with the 31 public postsecondary educational institutions eligible to participate, to implement this new program.

Vice-President Duffy's written testimony showed the fiscal breakdown for state universities, including Washburn University and community/technical colleges for FY 2008 through FY 2013.

Since May 21, 2007, the DOR has sent a summary of tax credit provisions of the legislation along with a "Question and Answer" fact sheet to all eligible institutions. On July 24, 2007, the DOR convened a meeting inviting the participation of all 31 postsecondary institutions to discuss the program and gather input on the implementation regulations. Draft regulations currently are moving through the review process.

Representatives from the state universities, Washburn University and the Regents' board office met with Secretary Wagnon to agree upon a methodology for the tax credit allocation formula. Based upon the language and intent of the statute, it was determined that the allocation take into consideration the square footage, age, and complexity of the buildings and infrastructure at each state educational institution, which will be known as the "adjusted square footage." The percentage of adjusted square footage each institution represents of the total will be applied to the total available project funds from private sources resulting from the tax credits.

Vice-President Duffy spoke about the subsidized loan program, noting that the Kansas Development Finance Authority (KDFA) has been working with the Regents' board staff and the 25 public postsecondary institutions eligible to participate in the program. The steps taken since the close of the legislative session follow:

- KDFA prepared a summary of the loan provisions of the legislation and shared it with all eligible institutions;

- KDFA and Board staff convened a meeting on July 25, 2007, of all 25 public postsecondary institutions to discuss the program and gather input on the implementation, including a survey; and

- KDFA and Board staff developed and distributed a survey that was distributed to all eligible institutions for completion. The purpose of the survey was to gather data from the institutions about the demand for the loan program in its current form and also to gather information about the demand implications if the eight-year amortization would be extended to a longer duration. The survey results contained 470 projects identified by 22 institutions.

Board staff working with the 25 eligible institutions are developing a statement of intent regarding the approach to the sharing of the bonding authority for Year 1 (Phase 1) and future years (Phase II). A year one loan application was sent to all eligible institutions. The application deadline is December 21, 2007.

In the FY 2009 budget requests for the six state universities, the five-year maintenance plan will provide $90 million in direct state funding, approximately $44 million in retained interest earnings, and up to $118 million in private contributions generated by state-funded tax credits. If these separate funding mechanisms are fully realized, this legislation will allow the state universities to address approximately 38% of the $663 million maintenance backlog that currently exists among the 429 state-owned "mission critical" academic buildings on those campuses. The Board felt it was important to continuously access conditions of buildings in order for them to stay on top of where there is deferred maintenance. The budget request included deferred and annual maintenance.

The Board's budget request includes $56.4 million in FY 2009 for deferred maintenance projects. This figure is the difference between the amount of funding already approved in 2007 HB 2237 for FY 2009 ($20.0 million SGF, estimated $8.6 million University interest earnings, and $15.0 million Education Building Fund (EBF) and $100.0 million, which is the estimated amount of funds that can be expended on the list of deferred maintenance projects in a fiscal year. Mr. King, Board of Regents, reviewed the details of this request with the Committee at a prior Committee meeting.

The Board authorized the introduction in the House last session that would set aside approximately $60.0 million SGF to be used to pay off existing bonds for the "Crumbling Classrooms" program that ends in 2012. This would free up $15 million per year in the EBF, which would double the amount available for repairs from the EBF and have the added benefit of reducing state debt.

The BOR requests $28.0 million in its budget request for ongoing annual building maintenance at the state universities. The Board's request is based upon industry standards that conclude that an appropriate budget allocation for routine maintenance and capital renewal is in the range of 2-4 percent of the current replacement value (CRV), excluding major infrastructure. An important and often misunderstood point is that this range does not include "one-time" funding to reduce deferred maintenance backlogs. Assuming the low end of the range, two percent multiplied by the CRV of $4.2 billion equals approximately $84 million per year. This is given a FY 2009 budgeting goal of $84.0 million, without factoring in inflation which is required to prevent further backlog, to maintain university campuses. This leaves a shortfall of $46 million for annual maintenance. This amount would be only partially financed with SGF, 60 percent, and the balance with university funds, or a total SGF request of $28 million. The $15 million from the EBF currently allocated for repair and rehabilitation is not included at this time because it will be needed to reduce the deferred maintenance backlog in the foreseeable future.

One of the issues that came up in the last legislative session involved the ability of university funds to accrue interest income. This also was examined during the summer. Housing and parking funds could not be used because they are used for the bond documents, but clearing funds were identified. This will not be very much money, as it is money that comes in and out. But the clearing funds could be added and would retain interest income. The other one would be student health insurance. Also, there may be interest income on student fees that could be applied to deferred maintenance.

The BOR authorized bringing forward several amendments to HB 2237 including increasing the loan amortization from 8 years to 20 years, and adding other student fee funds and university clearing funds to those university funds that retain interest earnings and must be used for deferred maintenance projects. The also would recommend any technical amendments suggested by KDFA.

Ms. Duffy said that interest earned currently on the student fee funds and other university clearing funds accrue to the SGF. She indicated she does not know the exact dollar amount, but will make that determination and report back to the Building Committee.

Senator Morris said he has personal concerns about the building, or lack thereof, of credit transfers on the state university side. Ms. Duffy noted that on the state side, they are not transferable. They are transferable for community and technical colleges.

Senator Morris asked if the foundations are involved in the same way they set up other business income, and is there some kind of problem. Ms. Duffy said she had not heard anything specifically in terms of the proposals or the foundations bringing something to the BOR. During October, the BOR sends a memorandum to all the schools stating that it was preparing to put a legislative package together and if the schools have any concerns, they should let the BOR know and bring that forward. Nothing came forward to the BOR. She indicated that she is hearing a little bit on tax credits as to how it is going to work. Ms. Duffy said from her perspective, she would like to see what happens in the first year and then put it in for five years. If there is a problem, the KDFA would come in and factually report it to the Building Committee and the BOR. It is hard to know until taxpayers really look at it on an individual basis and visit with their accountant to figure out whether or not this is something they can make work. Her advice is to get any concerns to the BOR. That way, if there are any suggestions, the KDFA can get them to the BOR and then bring them to the Building Committee to amend the legislation.

Representative Feuerborn referenced the number “$663,000” and indicated that what was passed in HB 2237 is only 38 percent of that amount, but realistically some amount should be deducted from that number, as there is an upfront payment. He wondered whether the number “$663,000” should be kept even though HB 2237 was passed. Ms. Duffy replied it has been reduced by the $200 plus million that is in there already, but that still leaves 60 percent. The BOR will be doing an assessment of those buildings again and will revise that number and bring it to the Building Committee.

Representative Feuerborn said he understood that the Board’s request for FY 2009 would be $144.4 million, which would not include the interest earnings that would be retained. Ms. Duffy clarified that the request from the State General Fund for the Board would be $56.4 million for projects and $28 million for ongoing annual projects, totaling $84.4 million. Representative Feuerborn then asked what is the $60 million payout for the “Crumbling Classrooms.” Ms. Duffy stated she viewed that as related to the project number (the $56.4 million), and that would be a vehicle that could or could not be used. That would be one way the Legislature could carry that out. The EBF pays the debt service.

Stephen R. Weatherford, President, Kansas Development Finance Authority (KDFA), addressed certain provisions of HB 2237 relating to Postsecondary Educational Institution Infrastructure Finance Program (the "Program") (Attachment 8).

KDFA staff have been working closely with the Board of Regents staff and representatives of the Community and Technical Colleges and Washburn (collectively, the "PEI's") to structure and implement the program authorized pursuant to Sections 8–12 of HB 2237 (the "Act").

KDFA and the Board recently developed a loan survey which the Board distributed to each PEI to ascertain each institution's projected deferred maintenance and loan needs which might be addressed through a program loan.

The survey results contained 470 projects identified by the 22 institutions. Just over 46 percent of the projects (216) were identified by Johnson County Community College (JCCC). JCCC's 216 projects are estimated to cost $18,917,583 (calculated as the average of low and high project cost estimated) with one single project (Library Building Renovation) dominating the projected cost ($14,000,000 or 74 percent). The following information was received:

- Projects Identified for PEI Loan Program: 254 (excludes JCCC)
- Desired PEI Loan Amount: $110,019,400
- Average: $433,147
- Program Capacity (as authorized): $100,000,000
- Individual Institution Capacity: $15,000,000 per the statutory cap
- Institutions Request Over-Capacity:
  - Butler County - $17,420,000 ($2,420,000)
  - Johnson County - $18,917,583 ($3,917,583)
  - Hutchinson County - $22,450,000 ($7,450,000)

Eliminating the over-capacity of these institutions nearly eliminated the overall program over-capacity.

KDFA staff has analyzed the legislation, and would propose the following technical corrections or suggested revisions:

- New Section 12(a)(1). They recommend the following technical correction. The sentence beginning on line 6 should read: "The aggregate principal amount of bonds issued pursuant to this section." (omit the words: *in a single fiscal year*).

- New Section 12(a)(1) limits the amount of bonds issued in any single fiscal year to $20 million. This cap may actually result in less economically efficient transactions, since typically, larger pooled transactions save money both through economies of scale in spreading out issuance costs, as well as garnering more market competition for the securities resulting in lower interest rates.

- New Section 12(a)(2)(c) limits the maturity on the bonds to a period of 8 years. This is a very short, atypical length of time over which to amortize bonds for major capital improvements, and creates an onerous burden on the PEI's in terms of their ability to repay the principal on the bonds for capital improvements which may approach $15,000,000. It is far more typical to amortize capital improve-

> ments over a period of 15 or 20 years, presuming the useful life of the capital improvements is 25 to 30 years or more.

Eight years is a very short length of time to repay a major capital improvement. The KDFA normally follows a federal guideline which states that when doing tax exempt financing, the term of the financing cannot exceed 120 percent over the life of the asset. That is what is suggested in this case, which is to match up the term of the repayment with the type of asset that is being refinanced. The normal life span of a building is 20 years. If an air-handling system does not have that long of an expected life, then the federal guideline would be followed. KDFA is asking for flexibility to match up the life of the capital improvement with the repayment. It is very onerous on some of these institutions if they would borrow the full capacity of $15 million to repay that principal over an eight-year period, as that could put a strain on their budget. KDFA is asking that this period be lengthened.

Certain descriptions in Sections 14 and 16 relating to the definitions of a "state educational institution" and "postsecondary educational institution" are confusing, and might be amended to make these definitions consistent with the Act and other existing statutes. This is something that is done on a fairly regular basis and KDFA appreciates the cooperation of the Office of the Revisor of Statutes as these issues are resolved.

KDFA is anticipating, based upon the results of the survey, that its first transaction will probably be a short-term transaction which KDFA will refer to as a bond anticipation note. It should be accomplished during the first quarter of calendar year 2008.

Committee discussion followed concerning the fact that there would be an increase in the amount of interest paid if the bond maturity dates were lengthened to 15 or 20 years. Also, KDFA clarified the suggestion that the $20 million cap be taken off, however, each institution would still be eligible for $15 million. This would allow for accumulation of more projects from the 23 or 24 eligible participating institutions to make for a larger dollar issue. Discussion also followed concerning deferred maintenance and ongoing maintenance.

Senator Umbarger stated that if you add up the numbers, the deferred maintenance issue will not be addressed in a short time and that is why it was extended over a number of years. It is not even keeping up with the needs. The big challenge before the Regents is the extra deferred maintenance costs they inherit one year to the next. This is why it became a longer period of time and yet it still does not answer all of the concerns.

Mr. Weatherford remarked that it should be emphasized that in this particular program, $100 million is involved, but the institutions are responsible for the repayment of the principal. The burden on the SGF is the interest component. It is the rationale for increasing the term, which will reduce the burden on the local institution's budgets for repayment of the principal.

Representative Feuerborn moved that the Committee recommend the first technical correction suggested by the KDFA regarding the new Section 12(a)(1) as outlined in KDFA's testimony today. Senator Umbarger seconded.

Representative Brunk abstained from voting with the explanation that he is not sure he understands the whole overall impact.

Senator Apple said it would make a difference how he votes on this matter depending upon whether this action would be recommended favorably or unfavorably, or have a bill drafted without recommendation. If this is going to be recommended favorably, then there should be more discussion on some of the suggestions.

Chairman Humerickhouse remarked that if the Committee recommends all of the KDFA's suggested corrections as outlined today, that all of them will be rolled into one bill and that will be the Committee's recommendation.

Representative Feuerborn stated that right now the intent of the Committee is to introduce legislation for future consideration, *so he moved that the Committee review favorably the suggested KDFA suggestions, without omitting or adding to its recommendations, as outlined in their presentation today.* Senator Umbarger remarked that as far as new regulations are concerned, this is something the DOR is taking care of through the rules and regulations process.
Motion carried.

Robert J. Edleston, Ed.D, President, Kansas Association of Technical Schools and Colleges (Association), presented testimony regarding Kansas Technical Colleges relating to HB 2237 (Attachment 9).

Technical institutions have operated for many years under a block grant funding formula. Even though legislation was in place to fund the institutions at 85 percent from the State, it was never realized and created a period of stagnation throughout the state. Technical schools and colleges tried to grow, but were not always able to do so. Many fell under school districts that had more critical priorities in their K-12 arena. None have taxing authority to provide resources for growth, and so they have remained relatively unchanged since the 1980's and earlier in some areas.

HB 2237 provides the opportunity to make desperately needed improvements and upgrades to facilities in order to meet the needs of students, and to meet the demands of industry partners. In many cases, it is those same partners who will be providing the funds to make the repayment of the interest-free bonds possible. For example, at Manhattan Area Technical College (MATC), dentists from six counties have pledged over $250,000 to renovate an existing facility and transform it into a new Dental Hygiene program. MATC has been trying to find room for this program since before the turn of the century. They are now drafting a proposal for use of the bond money to renovate these facilities and hope to have the Dental Hygiene program on campus by August 2009. Otherwise, they would spend $100,000 a year leasing space downtown to hold the program.

The question that came out the first day was that this was a great idea, as there is money to make upgrades, ADA improvements, and renovations. The problem was how to repay the bonds, as there was no additional revenue. They do not have any taxing authority and have never been able to float a bond before. We decided that when we do projects on campus where we are approving space for programs, then the customers need to help. It is a $250,000 project to renovate buildings to create a Dental Hygiene Facility. It will be a two-year program that creates dental hygienists by taking assistants and making them into hygienists, graduating 30 students a year. This benefits dentists who are paying $70,000 a year for a dental hygienist and not being able to have control over who they hire and how much they pay the hygienist because of the shortage. It is one of the top two in-demand careers in the country. For the dentist's donation, they will receive a 60 percent rebate from the state on their taxes, plus the possibility of receiving a federal reduction because the Association is a 501(c)3 organization. For every donation to this program that goes directly to the deferred maintenance or renovation for the technical schools, colleges, and community colleges, the dentists will provide the revenue for the Association to pay for the bond. This is just one example, as the Association still have our auto tech that needs expansion and improvement, along with HVAC and other small projects that come along. The Association is going to continue looking at how we can repay the bonds before we come asking for any of these bonds.

These bonds and tax credit incentives will make that dream come true and fill a desperately needed program in our region.

On the other hand, when this legislation was penned it was assumed that the technical schools would no longer exist as they do today. HB 2556, enacted last year, stipulates that by July 2008, each of the four technical schools and Northeast Kansas Technical College shall submit a plan to the Kansas Board of Regents to merge or affiliate with a postsecondary institution, or become an accredited technical college with an independent governing board. This process has been started and the institutions are following all three routes. However, what was not taken into consideration when these institutions were left out of HB 2237 was that these facilities must still exist, will still be occupied, and are still in need of repair. This transformation is meant to improve the delivery of technical education without creating a burden.

What the Association ask is that this Committee or legislators expand HB 2237 to include these five technical schools to ensure that these institutions benefit from important business and industry partnerships to help maintain their facilities. The Association asked for inclusion of those left out by changing the existing distribution and lessening the available resources. In other words, there is a need for additional revenue to take care of these five institutions. It was an estimated need of $859,000 yearly over the next five years in order to include those other five institutions. If separate legislation is needed, the Association spokesperson stated he would be happy to assist in the process any way.

Senator Goodwin inquired whether any of the technical schools have programs for nursing students. She also remarked that she heard comments from physicians that everyone is not close to a Regents' institution where they can pull RN's. She heard that they have the same situation as the technical schools and colleges have, *i.e.*, some student programs are funded and others were not because they are in different colleges.

Dr. Edleston stated that the funding of the technical schools, colleges, and community colleges have some very convoluted funding streams. There are 23 nursing programs in the State, among those are technical schools, technical colleges and community colleges, and Regents' institutions. They alone have both RN and LPN programs and serve 93 students a year. Some technical schools have LPN programs, not RNs, as that is an associate degree of nursing. However, if it was part of the area vo-tech school prior to the merger, then it is funded through the Kansas Technology College side. If the community college took it on as their own program and did not use that funding stream, it is funded through their block grant which is a different formula and is not funded as much. One of the primary missions of the new technical education authority that is affiliated with the BOR is to resolve this, and to fund all programs according to their merit and needs. There may be some tiered funding for those high-cost, high-demand fields, or they may be funded out of revenue from the schools. At the present time, there are none unfunded.

Senator Umbarger remarked that there are two problems. One is that if the technical schools do not merge, become affiliated, or become an accredited technical college, they are not eligible at this point. Once they do merge and become affiliated, they become a hindrance whomever they team up with, as there were no funds made available earmarked for those being brought aboard.

Senator Morris asked whether the Board of Regents has addressed this issue about these five institutions. Dr. Edleston replied that it has not been discussed in open meeting at the BOR, but it has been discussed with members. Senator Morris continued by saying that this is a historical year for education. The State has a long way to go and this is a very important part of our education system.

Senator Kelly asked Dr. Edleston, if he were making a recommendation today, what it would be. Would it be to increase the $15,000 and include the amount? Dr. Edleston said whether it is the cap that needs to be increased, or whether it is the overall allowable amount of tax credits that needs to be increased, whichever one would do that service. He recommended that it be done now so that it does not take two or three years to get done and then the program ends two years later. There is statutory precedence for merger, but not any statutory precedence for merger with a technical school with a university. The term "merged and affiliated" in this instance mean the same.

Representative Feuerborn remarked that it will not work if the cap is just raised. He noted that the Committee needs to look at this as a new merger and have two chips instead of just one.

Senator Umbarger said this related to this information just presented to the Committee, and he fears that if the Committee does not make a recommendation or take action today, this concern will get lost in the shuffle. He stated that the Committee needed to introduce legislation to address this concern.

Representative Brunk remarked that he would concur with Representative Feuerborn's remark about being "two for one," or up to double that amount contingent upon this type of merger or affiliation.

Senator Umbarger suggested that staff from the Revisor's Office and Legislative Research work together to come up with language for the intent of this Committee so that a motion can be made at today's Committee meeting.

Ms. Duffy noted that the five technical institutions who are not accredited by the higher learning commission were the institutions that were left out: Kansas City Area Technical School, Kaw Area Technical School, Salina Southwest Area Technical School, Wyandotte Area Technical School, and Northeast Kansas Area Technical College. The legislation happened near the end of the session and people were not sure what the intent of the Legislature was. Everything was in flux with these five schools and people were not sure what was going to happen. Her understanding is that if these five schools get accredited, affiliate, or merge, the Legislature wants them to be eligible for both programs or the Legislature would treat those five schools in the same manner as the 19 community colleges and 5 technical colleges. The other thing she heard was that if a school affiliates with another institution, both of them (in other words one on one) would participate on the tax credit. So, the other policy question will be whether the Legislature is going to divide the resources, as it has been done so far, or add to the base amount. Right now, there are 25 schools eligible for $100 million ($4 million apiece), so if five schools are taken in, there would be another $2 million.

Senator Morris suggested that if the Committee recommends the policy changes, then language needs to be added that defines schools that are eligible for this.

Representative Feuerborn said he understands that if you stood alone, then the accreditation would not change.

Senator Umbarger said he understands Senator Morris is suggesting that they must become accredited and must merge, and if they choose not to merge, that would first have to be approved by the BOR.

Senator Umbarger stated that the Committee could make a motion to conceptually include the suggested changes on the topics the Committee has discussed today.

Senator Umbarger moved that the Committee recommend the suggested changes that were discussed today regarding the technical schools. Senator Kelly seconded. Motion carried.

Chairman Humerickhouse recessed the meeting at 3:30 p.m.

Friday, November 30
Morning Session

Chairman Humerickhouse called the meeting to order at 9:15 a.m.

Staff distributed a draft of the December Building Committee agenda.

Marilyn Jacobson, Director of Finance and Facilities Management, Department of Administration, presented additional testimony regarding the Capitol Complex Utility Tunnel (Attachment 10). Photographs of the tunnel were distributed to Committee members.

Last month, the Department of Administration (DOA) requested funding in its 5-year capital improvement plan to replace the 80-year-old maintenance tunnel for utility systems. Although this is not a pedestrian tunnel, Division of Facilities Management employees enter this tunnel area every shift to verify the integrity of the tunnel and the systems it accommodates. Due to the age of this tunnel, water enters the tunnel from rain and watering of the lawn though the top due to failing brick construction. There have been areas of the tunnel that have caved in and have standing water, thus this area becomes hazardous for employees to enter into and work.

The tunnel provides service to the Landon Building, Memorial Hall, Curtis Building, and the Judicial Center. With this tunnel containing steam piping, electrical service and communication conduits, a collapse of this tunnel could sever service to these buildings and parts of downtown Topeka for an extended period of time while repairs are made.

The Committee requested DOA to provide information in response to three areas:

- Evaluate the tunnel for immediate repairs that should be done in the interim while design and construction is done on a final solution.
- Evaluate the feasibility of repairing the existing utility tunnels (Scheme A).
- Evaluate installing new utility trenches and tunnels to serve the buildings previously identified. As part of the evaluation, three different scenarios of routing were reviewed (Schemes B, C, and D).

Smith and Boucher Engineers from Olathe conducted the evaluation over the past 30 days. Several site visits to the tunnels and conferences with the public utility companies and the City of Topeka were conducted to verify the conditions of the public utilities crossing the existing tunnels, as well as the general layout of the existing public utilities adjacent to the existing and proposed alternate tunnel sites. Reviews of available construction and utility drawings and steam loads were also performed.

Repairs of the existing utility tunnel will be extremely costly for the return benefit. The repairs, whether temporary or permanent, would only extend the useful life of the utility tunnel for a short period. Repairs to the existing piping and electrical support system will be temporary. Piping sizes in the existing tunnels were based on steam loads that have since been exceeded by current demand. The steam supply velocities are in excess of acceptable levels to prevent internal erosion and water hammer, both of which are life safety issues.

Elimination of public utilities crossing the existing or new tunnel should be a goal of any repair or replacement of the existing tunnels. There are major life safety concerns involved having operational utilities in the tunnels. For example, along Jackson Street, there are two 13,200 volt power lines. Both lines are in conduit with the lines crossing the utility tunnels encased in concrete. The lines serve the Capitol Complex and parts of downtown Topeka. The encasement and the pipes are broken, exposing live high voltage cables.

The temporary repairs consist of: stopping the water infiltration of the tunnel south of 10th Street which serves the Judicial Center; installing a new sump pump to drain the tunnel from the Statehouse to Memorial Hall; fixing the public utility penetrations of the tunnel wall; repairing and sealing some of the major joints and fractures in the tunnel walls and roof; installing strut pipes and bearing plates to slow down wall displacement; and repairing the existing pipe and conduit support framing. These repairs will extend the life of the tunnel for two years. Estimated cost of the temporary repairs is $370,170.

The cost to repair the existing tunnel system (Scheme A) is estimated at $4,844,488. Repair and upgrade of the existing tunnel is the most costly option reviewed and it will have the shortest anticipated service life of five years. The following are reasons why this is the highest cost option.

- The repair work will require the installation of new drainage along the tunnel. This will require a majority of the tunnel to be excavated.

- It is assumed that during the excavation process as much as 30 percent of the tunnel would collapse and need to be replaced with new cast in place tunnel (more expensive than the pre-case design of a new tunnel). The cast in place tunnel will be required to match up with the existing tunnel.

- There will be no steam heat available for Landon, Memorial, Curtis, and Judicial buildings while this work is being done. This will require a temporary heating boiler to be installed on the southeast Statehouse Grounds for providing heat to the buildings.

- Portions of the tunnel that are not replaced will need to be reviewed every five years, and this will likely result in additional repair projects in the future.

- The cost of new utility trenches and tunnels are:

  - Scheme B – No building used as part of the tunnel $3,855,348

  - Scheme C – Landon and Memorial used as part of the tunnel $3,278,570

  - Scheme D- Landon, Memorial and Curtis used as part of the tunnel $2,903,666

Several routings of a new tunnel and pipe trenches were evaluated. The conclusion was that it is cost effective to use buildings rather than a new tunnel where practical (*i.e.* run steam piping through Landon and Memorial rather than building a pipe trench between 9th and 10th Street on Jackson). The consequence of this is that we create a dependence on the building in the complex. This is not a problem if the long-term plans are to keep and maintain the buildings in the complex.

Director Jacobson said the temporary repairs and long-term repairs could be done at the same time, and both projects are recommended to start at the same time. The reason for the temporary repairs is to insure that the current tunnel maintains as much integrity as possible during the course of the long-term project. Depending on the option chosen, the time frame is 18 to 24 months from the beginning to the end.

Director Jacobson said the design phase would be started now so that the design phase could be absolutely right. The project could be started in the spring when there is decent weather. The 18 to 24 months from start to finish includes the design phase as well as the actual construction phase and closing down the old tunnel.

Director Jacobson stated that if Scheme D is selected, the same original route will be used except for the part of the tunnel that will not be used.

Director Jacobson stated that Scheme A basically shows the tunnel as it currently exists. The temporary repairs would be throughout the tunnel. For example, all the places were there is live wire exposed and where the actual ceiling needs shoring up would be fixed. Repairs will be where the tunnel line cuts diagonally across the street. Basically, almost all of the entire current tunnel system will be abandoned except for going through the pipe trench instead of having an actual utility tunnel.

Director Jacobson remarked that back in 2002, the DOA ran a cost estimate of a combined pedestrian and utility tunnel. However, that project was a bit larger and had a pedestrian tunnel that not only connected all of the proposed buildings, but also the Eisenhower Building. At that time, there was $10 million of federal funds involved. Estimates ranged from $17 million to $20 million.

Senator Morris said he believes that the DOA recommendations are the right way to proceed, but last month there was discussion about the emergency nature of the current tunnel. He stated that he would be concerned if we wait until we go through the legislative process, as it will be six months before it could be authorized, and another several months before work could commence. Senator Morris noted that he was concerned about the integrity between now and then.

Director Jacobson said if this is the Committee's recommendation, she will take that back to the Secretary of Administration. She has not had any additional conversations to identify any particular funding source. She remarked that she has the same concerns as the Committee if the temporary repairs are not done soon.

Senator Umbarger asked Director Jacobson about negotiating with the City of Topeka and whether any of the negotiations involved sharing of expenditures.

Director Jacobson stated that several major utilities crisscross the tunnel that leads to some of the exposure. Westar runs some lines through the tunnel, Cox Cable does, and so does Southwestern Bell. We have had conversion with all three of the utility companies and made them aware of the project. In some cases, the utility company has stepped up and said that is their responsibility and they will make those repairs. Those costs are not included in the expenditures. The utility companies are very anxious for us to go forward with the project and to work with us so that their lines do not crisscross our lines. We will try to minimize that by running the lines parallel to each other. It was noted that there was another meeting with the City of Topeka today about this particular project. Those conversations have not included dollars at this point.

Senator Umbarger asked if the utility companies inspect where the lines crisscross and whether they are beneficial to the DOA. Director Jacobson replied that they are really not beneficial because the utility lines are running in different directions than ours, they just happen to go through our tunnel. We would try to get their lines all running parallel with ours, which would be of some advantage to the utility companies.

Director Jacobson said that she did not look into the possibility of any federal funds if this tunnel was expanded as a pedestrian tunnel. Senator Umbarger said he would be interested in a comparison of the present cost to the state, and the cost to the state in 2002 with the federal funded input. This will show what the state could have had and what we are dealing with today.

Director Jacobson said the project estimates in 2002 ran from $16 million to $20 million. Ten million of that was federal funded, so the remaining cost ($6 million to $10 million) would have been from the State General Fund.

Typically, a tunnel proposed today has a life span of 50 years. Tunnels running through some of the buildings would not take up much space as running through the basements, and it will reduce the cost by using the building structure instead of having to build a pipe trench.

Representative Feuerborn asked what the maintenance workers are looking for when they enter the tunnel every shift. Director Jacobson indicated they are looking for breakage. The main reason they are in the tunnel is to look at steam traps that have to be inspected weekly, and then they check the traps and look for other breakage and maintenance problems. These inspections have occurred since 1985. Representative Feuerborn said he was trying to find out if the deterioration has been fast or slow; however, with moisture intrusion that comes in all the time, it is difficult to tell what is happening behind the walls, especially deterioration.

Senator Morris asked what the opinion is of the City of Topeka. Director Jacobson understands that the City Engineering Department has had concerns for a number of years about the integrity of that particular tunnel under the streets.

Senator Morris then asked if the engineering company stated whether it was possible for the tunnel to collapse. Director Jacobson replied that part of the temporary repairs is to shore up points that they identified as being vulnerable. In the report, it does not specifically address whether a collapse could occur in 30 days, 6 months, or a year. The City of Topeka inspectors are walking along the route where the bare wires are located. Senator Morris remarked that there is immediate danger with that kind of exposure and a possibility of collapse.

Senator Morris said he believes strongly that this project needs to be started right away before something bad happens.

Senator Goodwin reminded the Committee about Director Jacobson's remarks in her presentation about hazardous areas for employees to enter and work. There are major life safety concerns involved having operational utilities in the tunnel. With this said, since the Committee has been put on notice about this serious situation, she believes if one life is lost, the amount of funds needed to correct the situation is going to be nothing compared to a liability claim. So, if we think we can afford it or not, she agrees with Senator Morris, the Committee has to move quickly and as expeditionly as possible.

Director Jacobson pointed out that this project has been in the DOA's 5-year budget plan since well before year 2002. The project was approved in 2002, but then a legislative decision was made not to go forward with the project.

Senator Umbarger remarked that he is assuming with the recommendation to do the temporary repair and the renovation of the tunnel, that "Scheme D" option would be used. Director Jacobson agreed. The filling in of the old tunnels that cross Jackson and 10th Street will be the responsibility of the State, and they will be backfilled without closing down the street in that area. The rest of the tunnel will be collapsed and backfilled with material. The cost for filling of the tunnels is included in the cost estimates.

Representative Brunk moved that the Committee recommends asking the State Finance Council at its next meeting to fund the temporary repairs of the utility tunnel project as outlined in the DOA's presentation today. Senator Morris seconded. <u>Motion carried</u>.

Director Jacobson said the DOA will make the Committee's recommended request to the State Finance Council, and a letter to that effect should be directed to the DOA from the Chairman of the Building Committee.

Senator Apple requested documentation for the last three years of funding for the tunnel repair, and Director Jacobson said the DOA would provide that information to him. Representative Brunk suggested that the DOA find out if there are any federal funds available in case a pedestrian tunnel would also be included.

Senator Morris provided verbal background information on the 2002 tunnel project request. He remarked that the Committee's December 13, 2007 meeting discussion will focus on which option should be used to repair the tunnel.

Director Jacobson explained that the exposed tunnel power line provides power for Westar because it is its line, but it also provides power for the Capitol Complex and downtown Topeka. Westar plans to repair its lines in the near future.

Director Jacobson explained that the plan is to remove the primary electrical conductors that belong to the utility company and run them parallel to the new tunnel so as to not crisscross or be in the State's trench. Senator Apple suggested the utility company start installing its lines in a trench in a conduit outside the scope of the tunnel in order to get the work done and the conductors out of the old tunnel. Director Jacobson said the DOA could certainly talk to them about that, however, the big motivation for them to move its lines was the fact that this tunnel was going to be collapsed.

Chairman Humerickhouse reminded the Committee that it needs to make a recommendation for oversight of the deferred maintenance monies.

Senator Apple said he thinks the Committee's duty should be to make sure that the original intent of the Legislature is followed through and money is not used for other purposes. He stated he was somewhat concerned yesterday when discussion occurred about taking the 8-year bonding program and extending it out and funding a $20 million cap. He saw this as a revolving fund for maintenance items, and if all that money is used up, then a lot of the smaller institutions are going to lose out on some important program that may come up two or three years down the road. He thinks this is one example of how to stay involved in the process. He is leaning towards a Committee report that is easy to understand and has some history to it. The Committee will be able to see if the request this year will be the same as next year, so it can see if it is staying on task as things change. The biggest thing to stay away from is going into areas for which the program was not intended.

Representative Brunk reported that Senator Apple has expressed his thoughts. When the Committee first came into this, he thought that it should have some outside entity to be accountable for the process on a regular ongoing basis. He has done a 180-degree on that idea. One thing that has helped him in making that decision is the frankness and openness coming from the DOA about the project. He is comfortable for this Committee to be the oversight committee. He does have some concerns about how easy it is for the Committee to change the format, as discussed by Senator Apple, in regard to extending the bonding program term. He thinks it is important to stay with the original intent of the legislation as much as possible, but still have some flexibility.

Representative Grant said that he goes back to the "Crumbling Classroom" project, as it appears that some things were done that was not the original intent. As far as creating another bureaucracy, he does not agree with that. He thinks this Committee should be an oversight committee. He cannot see farming it out to somebody else. Eric King and the Board of Regents have been very good to work with, and he thinks many things will be done. He has seen this Committee evolve from just taking what people say for granted and believing them to getting down to the point of asking for explanations. His own opinion about being an oversight committee is that the Committee stays on top of things, and as legislators who are responsible to their constituents and to their universities, community colleges, technical colleges, and schools. It is up to the Committee members to stay on top of the issues and make sure we reach the goal that all of us have set.

Senator Goodwin indicated that she agrees to a point with what has been said, and wonders what entity has the longevity that will follow this from year to year. A number of years ago during an election year, most of the institutional knowledge of the Committee did not return to the Capitol. She does not have reason to doubt that somebody will take care of the deferred maintenance program, but when a lot of institutional knowledge is lost, somebody has to pick up the continuation. That is the only reason she questions whether this Committee is a logical entity for oversight. She thinks this Committee has been very effective on the deferred maintenance issue, but she is concerned about whether there will be continuity.

Representative Brunk said he appreciates Senator Goodwin's comments because that was a concern of his, as well. However, it still would not preclude the Committee from asking for somebody from the outside to step in and help it out in the future.

Representative Grant said he also appreciates Senator Goodwin's comments. The reason he believes this Committee should stay as the oversight committee is because the members are all going to be back for at least one more year. If it appears that there is a need for outside help, the Committee has a year to get to that point. He does not disagree that perhaps down the line, when Senator Morris and Representative Feuerborn are gone, some continuity will be lost. He stated that when the Committee lost Senator Vidricksen and Representative Phil Kline, they lost a lot of institutional knowledge, but he still feels that the Joint Committee is the proper one to be the oversight committee.

Senator Morris said that this Committee has been on top of the deferred maintenance issue for a number of years. Three or four years ago, this issue was previously discussed. He thinks the knowledge of the issue is here and it is logical that it stay with the Committee until something different needs to be done. Right now, he is very comfortable to have this Committee do its assigned task for deferred maintenance.

Senator Umbarger said he knows the debate when this bill was put together. He worked with both chambers. The Joint Committee presently has a great deal of maintenance knowledge. The charge for this Committee is to develop a long-term maintenance and oversight plan to address the deferred maintenance issue. Therefore, it was logical for the Joint Committee to be assigned this charge and not handed over to somebody else. However, there are other eyes looking at this such as the Senate Ways and Means Committee, and the House Appropriations Committee. The Division of Facilities Management also has oversight. There is even more oversight from the Legislative Coordinating Council. Senator Umbarger said he is in complete agreement with the comments from Senator Apple and Representative Brunk about this Committee being well equipped to handle the issues, along with having a great staff.

Chairman Humerickhouse remarked that he appreciates Senator Goodwin's concern as far as loss of institutional knowledge. With that in mind, maybe part of the Committee's charge with oversight would be looking what got us into the deferred maintenance situation that we have now. At this point, he is calling on Eric King, Director of Facilities Management, Board of Regents, to explain a little bit as to what the Regents have done, including the quarterly report concerning the deferred maintenance projects.

Eric King, BOR, presented an update on implementation and emerging issues related to 2007 House Bill 2237 (Attachment 11).

Mr. King stated that much of his testimony is going to be redundant, as some of it became part of House Bill 2237. He will discuss decisions that went on last January when the BOR met. They are very aware that they could have done things better and they want to do things better. Throughout the legislative session, they noted that they had state buildings on the 2006 report that were not mentioned as critical. The BOR view is that they are state owned buildings. However, they certainly understand the political realities supporting it. They changed and removed president's homes and related athletic facilities. In fact, that became part of House Bill 2237. They went further and cleaned up the list of anything that might raise an eyebrow. Essentially, they looked at the list of projects that add up to $663 million. They believe these projects are all mission critical, and are all academic or academic support facilities. They try to keep the campuses on point with the most urgent priorities. Regarding the tax credits, some of the institutions have donors that want to give to a specific building. The problem is whether to accept their wishes or tell the donor that they can only give to the most critical buildings. The view at this point is that the donation has to be for the most critical projects. On the other hand, that might be a "catch 22." He stated that he may be coming back to the Committee if not all the tax credits are used, and the committee might say to use the money for the most critical projects.

Last January, the BOR took action to change some of the policies and procedures. As the campuses came through with their first round of projects for FY 2008, and as the Board scrutinized future projects, there were certain guidelines that had to be met. Maintenance allocations got put in as part of House Bill 2237. The Board is no longer just looking at square footage; it is also factoring in how a building is used and how old it is. The Board is telling the campuses that these need to be “nut and bolt” type of maintenance projects, not just projects where a lot of aesthetic work is done, along with fixing the utilities. Essentially, the Board is telling the campuses that it is fine if they have donors that want to give money to a project, but the Board is clearly defining those dollars.

The Board is tracking the dollars that are used for deferred maintenance, and if there are other dollars added from donors, the Board will tell the Committee. The schools are not to use money for additional space or new programs. The schools are asked many questions when they submit a project, and sometimes the project does not meet the criteria. The Board is committed to improving its practices. The first thing the BOR asks if a school wants a program addition or a new building is how it will be maintained. That has to be answered to our satisfaction before the project is approved. The Board has enhanced the funding allocation because it understands that it takes a different amount of money to maintain a warehouse as it does a research building, and that was not previously being considered.

On new buildings or any kind of a renovation process, one of the things the Board did not do well in the past was ask the campuses to justify what would happen to a vacated space if the University provided new space. Do you raze the building, put it to good use, or convert it to another use? The Board was remiss by not dealing with that in the past.

Although we have been doing inventories and space utilization reports for a good many years, Mr. King thinks the Board needs to ask questions that were not asked before. The space utilization reports indicate whether campuses have classrooms that are used on average four hours a day, or eight hours a day. They also indicate whether there is an abundance of offices. Some of the bigger campuses certainly book their classrooms eight hours or more a day. Some of the regional campuses have a less healthy utilization rate. As we get any architectural programs that request new space or new classrooms, the Board will ask the school why they need any more classrooms if they have utilization rates showing the classroom is used only four hours per day.

Senator Apple said that this process is a complex issue, and the Committee often gets overloaded with information at times. He stated that he appreciates it when information from years past is discussed and not lost. Losing information from past years may have been the problem with the “Crumbing Classrooms” in regards to staying on course. Such an executive summary will help legislators who follow us. Mr. King said he would certainly be open to that suggestion.

Mr. King stated that he has thought about providing a budget report that shows any changes the Committee makes. The Board wants to be able to track and show from the very beginning where the money was to go, were it went, and whether money was left over or got shifted to another project. Mr. King continued by remarking that he would like to prevent any negative comments on the deferred maintenance issue, so he will give more thought on how to provide the Committee with a summary.

Representative Brunk noted that this issue is like taking a baby step. There appears to be an expectation from the universities that there will be a phase II, and this may be contingent upon how well, how open, and how much the intent of phase I is protected.

Representative Brunk asked what the Committee needs to do procedurally at this point.

Staff informed the Committee that House Bill 2237 gave the Joint Committee on State Building Construction specific responsibilities. The Joint Committee is required to develop a long-term management and oversight plan for the Regents deferred maintenance projects to be presented to the 2008 Legislature. In addition, the State Board of Regents is to advise and consult with the Joint Committee regarding each project and shall not approve a project to be financed by monies from the infrastructure maintenance fund unless the State Board of Regents has first advised and consulted with the Joint Committee. The Joint Committee is directed to study and make recommendations regarding the five-year capital improvement and facilities plans and capital improvement budget estimates submitted by state agencies; monitor the progress and results of all capital improvement projects for construction of buildings or for major repairs or improvements to buildings for state agencies; review the state process for estimates and bids for building renovations, including the Regents deferred maintenance and repair program; and review architectural fees in state contracts. It is a broad charge. What that means is the Committee can come up with whatever plan it chooses.

Representative Brunk suggested the following be included in the Committee's report:

- Dollars must go the existing deferred maintenance projects.
- Quarterly reports must be made to the Committee from the Board of Regents.
- The most serious maintenance projects must be identified.
- Identify who will serve as oversight, and what procedures will be followed.

Representative Grant asked what the universities do if a donor wants to put a name on a building. Does the Committee say this cannot be done now? He does not want the money this Committee and the Legislature has put into the maintenance projects to go toward this type of project, but outside money would not be a problem for him. Mr. King noted that donors have their idea on the types of project for which they want to give money.

Representative Feuerborn stated that until it is seen how the tax credits are going to be used, it is very important that money only be used on the critical items. In a year from now, if the Committee sees that all the tax credits are not being used, it can address donors' contributions. It is very important to start out with the emergency items and not the cosmetic type items.

Mr. King said he does not think the Board is talking about cosmetic type items, but rather whether there might be some projects that are critically important to address now as opposed to another maintenance type issue way down on the list. The most critical items must be taken care of first. If all the tax credits do not get issued, then the Committee might have to look into going down a little further on the list.

Senator Morris noted that it is recognized that donors do not care about donating to maintenance problems, but perhaps they would be interested in having their name on a classroom. Mr. King said he does not feel that donors will give money for maintenance, but because of the tax credits, donors may be interested in having their name on a classroom.

Representative Brunk suggested that a punch list be established to fulfill the Committee's obligation and to bring those goals and procedures to the next Building Committee meeting.

Discussion followed concerning a need for a timetable for possible renovation of the Dillon House.

Chairman Humerickhouse adjourned the meeting at 11:00 a.m.

Prepared by Helen Abramson
Edited by Kimbra Caywood McCarthy

Approved by Committee on:

April 29, 2008
(Date)

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