

## MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Julia Lynn at 8:30 am on Tuesday, February 16, 2016, 548-S of the Capitol.

All members were present

Committee staff present:

Debbie Bartuccio, Kansas Legislative Committee Assistant  
Reed Holwegner, Legislative Research Department  
Edward Penner, Legislative Research Department  
Chuck Reimer, Office of Revisor of Statutes

Conferees appearing before the Committee:

Steve Kelly, Deputy Secretary, Kansas Department of Commerce  
Bob North, Chief Attorney, Kansas Department of Commerce

Others in attendance:

[See Attached List](#)

*Senator Pilcher-Cook moved, seconded by Senator Olson, to approve the minutes for February 2, 2016, February 3, 2016 and February 4, 2016. The motion passed.*

### **Informational briefing:**

Chairperson Lynn referred Committee members to a summary of distributions of state sales and use tax revenue to Sales Tax Revenue (STAR) Bond districts provided by the Kansas Department of Revenue. [\(Attachment 1\)](#)

Chairperson Lynn recognized Steve Kelly, Deputy Secretary, Kansas Department of Commerce, who provided an overview of the Star Bond Annual Report. The following Star Bond Projects were included: City of Topeka - Heartland Park; Wyandotte County - Village West; Wyandotte County - Waterpark; City of Wichita - The Wichita River District; City of Manhattan - Flint Hills Discovery Center; and City of Overland Park - Prairiefire at Lionsgate. [\(Attachment 2\)](#) [\(Attachment 3\)](#)

Chairperson Lynn requested Deputy Secretary Kelly to explain the process involved with acquiring STAR Bonds. He indicated destination tourism is the primary objective of a STAR Bond project. The project must meet certain criteria and have local approval. The first step is to define the district and then to review the project plan with the Department of Commerce to determine its feasibility. Ultimately, the Secretary of Commerce approves the bonds for the project.

Senator Faust-Goudeau questioned how projects are able to determine the feasibility that certain percentages of tourists must come from areas outside of Kansas. Deputy Secretary Kelly said STAR

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Bond projects require an analysis of the market and the projected tourism component.

Senator Longbine asked if there were written guidelines concerning the establishment of a district. Deputy Secretary Kelly responded there are no written guidelines as to the geographic size of a district. There is a balancing between the interests of the city and the developer, subject to negotiation. Districts can be expanded or reduced in area.

Senator Melcher questioned the process for expanding an existing district in order to capture additional revenue. Bob North, Chief Attorney, Kansas Department of Commerce, said the process for expansion mirrors the process for an initial project: requiring local approval for the project, providing the data for the criteria needed, and receiving approval by the Secretary of Commerce. Senator Melcher asked for additional information concerning the requirements for percentages of visitors from out of state. Mr. North replied the guidelines suggest 30% of visitors are to come from out of state, with 20% traveling more than 100 miles.

Senator Denning asked if the Village West project was scheduled to be paid off at the end of 2016. Deputy Secretary Kelly responded affirmatively. He indicated the Speedway is not part of the Village West STAR Bond project, but is listed as an attraction associated with Village West. The Speedway, Vacation Village and Soccer Stadium are separate projects.

Senator Denning questioned the approval process for the car dealerships which were added to the district of the Schlitterbahn Water Park project. Deputy Secretary Kelly replied he was not familiar with the specifics as to whether the developer or the Secretary of Commerce approved the addition of the car dealerships. Senator Denning asked if he understood correctly that the state's collections of the car dealership sales taxes would not increase as long as the STAR Bond district is in place, because all of the incremental increases go to the developer until the project has been paid for. Deputy Secretary Kelly responded affirmatively and indicated the bonds would not be paid in full for twenty years.

Senator Denning inquired about the approval process for the addition to the district of the Dairy Farmers of America headquarters building since it would not be a sales tax generator. Deputy Secretary Kelly said he was not part of the negotiations for the project. However, he noted there is not a requirement for an entity in a district to be a sales tax generator.

Noting that three of the six STAR Bond projects listed were not meeting expectations, Senator Wagle questioned how the Kansas Department of Commerce verifies the validity of the project projections when evaluating a project for approval. Deputy Secretary Kelly responded the Department performs an internal review, requesting outside assistance as needed. He said Secretary Soave intends to request an independent review of all new projects. He noted a couple of the projects were planned and moving forward when the recession occurred, which contributed to less than expected results.

Senator Wagle said the Legislature would like to see more scrutiny on STAR Bond projects, particularly with the state being more dependent on sales tax for revenue. There was discussion on

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modifications made to the budget bill concerning STAR Bonds. Senator Wagle asked if the Department of Commerce has reviewed the Legislative Post Audit recommendations concerning STAR Bonds. Deputy Secretary Kelly said he had reviewed the information concerning Heartland Park, and the Department had agreed to a number of the recommendations. Senator Wagle expressed an expectation that actions be taken to provide the Legislature with more confidence in the STAR Bond program.

Senator Melcher inquired about the American Royal Project and how it was initiated. Deputy Secretary Kelly responded there have been speculative discussions about the concept, but there is no project plan at this point. Senator Melcher questioned the potential sales tax revenue from the American Royal. Deputy Secretary Kelly said the revenue sources would include fees, concessions and income from events held at the facility. He indicated the American Royal would need other sales tax generators in the district. Senator Melcher asked what the incentive would be for retailers to locate as part of the American Royal complex. He also questioned the reasoning for a plan, he had heard, which would include the American Royal district with districts that are further east in Wyandotte county in order to capture incremental revenues. Deputy Secretary Kelly responded there has been speculation on a number of concepts, but the most recent iteration he was familiar with did not include any cross-mingling of districts.

Senator Melcher said it was his understanding the developer that built the soccer stadium had made a commitment to build sixteen soccer fields, and that the Schlitterbahn project is now working on a plan which includes the construction of soccer fields. Deputy Secretary Kelly responded the original sixteen fields have not been constructed and may be part of a new project under consideration. Senator Melcher noted the discrepancy that the original developer of the soccer stadium was to fund the sixteen fields, while the proposed plan would utilize STAR Bonds to fund the fields. If this occurs, the original developer would not be fulfilling the agreed upon financial commitment.

Senator Pilcher-Cook questioned if a developer can forecast a project will be successful, why would the developer need government assistance with the project. Deputy Secretary Kelly replied the issue is generally related to the up-front costs involved with starting the project such as land acquisition and construction of infrastructure. Senator Pilcher-Cook said the State is taking a risk and speculating with tax payer money for these projects. Deputy Secretary Kelly responded the state has no liability for the repayment of these projects so there is no financial risk to the state. Senator Pilcher-Cook expressed concern that STAR Bonds create an unfair competitive advantage. She stated, as an example, there were a number of local furniture stores which went out of business after Nebraska Furniture Mart opened.

Senator Olson expressed concerns about giving up sales tax revenue which could be used for school funding and other state funding requirements. If apartments are constructed in these districts, then the area is not receiving adequate tax revenue to support the students.

Chairperson Lynn inquired about the role of the Kansas Department of Revenue in the STAR Bond process. Deputy Secretary Kelly replied the Department of Revenue has the ability to track the actual

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sales tax revenue generated. Chairperson Lynn said she would expect frequent communication between the two agencies to achieve closer oversight of the STAR Bond project results.

Chairperson Lynn adjourned the meeting at 9:30 a.m. The next meeting is scheduled for February 17, 2016.

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