

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT.

The meeting was called to order by Chairman Kenny Wilk at 3:30 p.m. on March 25, 2003, in Room 522-S of the Capitol.

All members were present except:

Committee staff present: April Holman, Legislative Research
Debra Hollon, Legislative Research
Renaë Jefferies, Revisor of Statues
Fulva Seufert, Secretary

Conferees appearing before the committee: Art Griggs, Department of Administration, Legal Division

Others attending: See attached list

Chairman Wilk directed the Committee's attention to **SB 235** to resume deliberations from the new draft Renaë Jefferies, Revisor, prepared for distribution. He said that it was his intent to finish working **SB 235** and then to discuss **ERO 30**. The minutes for the March 20, 2003 meeting were distributed, too.

The Chair recognized Representative Brunk who presented the following amendments to **SB 235 - Providing for general STAR bond authority throughout the state:**

- Page 3, line 33, adding "and river walk canal facilities."
- Page 4, line 30, defines what a riverwalk canal facility is.
- Page 5, line 19, adds the following language: The secretary may also make such a finding with respect to any special bond project located in a redevelopment district established by a city prior to the effective date of this act.
- Page 15, line 19, remove statute book and add Kansas Register. (Attachment 1)

Representative Brunk made a motion to amend SB 235 and Representative Gordon seconded. Motion carried.

The Chair asked Ms. Renaë Jefferies, Revisor, to present the Revisor's definition of "commence work." Definition number 2 appeared to be the clearest. It reads as follows:

the manifest commencement of actual operations on the development site, such as, erecting a building, excavating the ground to lay a foundation or a basement or work of like description which a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed. (Attachment 2)

Representative Hill made a motion to insert the above definition of "commence work" into the bill on page 2, line 13 (d). Representative Novascone seconded. Motion passed.

A discussion followed about the amendment approved March 20, 2003, Section 7, (5) concerning such project may include an athletic complex...., and Chairman Wilk asked April Holman, Legislative Research, to address this concern. It was suggested to strike the last sentence of the balloon on Section 7, Part 5 which reads as follows:

"Any project that exceeds \$100,000,000 in total investment of all development phases shall not be subject to subsection (5) of this section." (Attachment 3)

Representative Burroughs made a motion to strike the above-mentioned sentence, and Representative O'Malley seconded. Motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT at 3:30 p.m. on March 25, 2003, in Room 522-S of the Capitol.

The Chair recognized Representative Loganbill who suggested adding the following language to page 5 between lines 24 and 25 to read as follows:

(b) Any redevelopment project plan in a redevelopment district located in the city of Wichita that is eligible for benefits provided by K.S.A. 12-1774 *et seq.*, and amendments thereto, and includes an arena or arena like structure shall be subject to approval by a vote by the citizens of Wichita at an election held for this purpose prior to approval by the secretary of commerce and housing. (Attachment 4)

Representative Loganbill made a motion to add the above language, and Representative Brunk seconded. Motion carried.

The following technical correction was addressed on page 2, line 32, to strike all of line 32, plus the amended language which added government building or school and to put a period after secretary at the end of line 31. Chairman Wilk made a motion to make this technical correction, and Representative Kuether seconded. Motion carried.

Representative Gordon made a motion to pass out **SB 235** as amended marked favorable for passage. Representative Hill seconded. Motion carried.

Chairman Wilk next directed the Committee's attention to **ERO 30**, and asked Deb Hollon, Legislative Research, to review the explanation.

A discussion followed, and Mr. Art Griggs, Department of Administration, Legal Division, addressed the committee regarding members' concerns and questions. The Chair thanked Mr. Griggs for attending the meeting and addressing these concerns. (Attachment 5)

Chairman Wilk announced that there would be a joint meeting with the Senate Commerce Committee at 12:30 p.m., Thursday, March 27, 2003, in Room 313-S. Mr. Jeff Turner, Boeing 7E7 Project, will be present, and the entire legislature will be invited.

Representative Novascone made a motion to approve the minutes of the March 20, 2003, meeting, and Representative Craft seconded. Motion carried.

The meeting adjourned at 4:30 p.m.

5
6 **SENATE BILL No. 235**

7
8 By Committee on Commerce

9
10 2-14

11
12 AN ACT concerning tax increment financing and sales tax revenue
13 bonds; relating to redevelopment of certain property located through-
14 out the state; amending K.S.A. 12-1770a and 12-1774 and K.S.A. 2002
15 Supp. 79-3620 and repealing the existing sections.

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. K.S.A. 12-1770a is hereby amended to read as follows: 12-
19 1770a. As used in this act, unless the context clearly shows otherwise:

20 (a) "Auto race track facility" means: (1) An auto race track facility and
21 facilities directly related and necessary to the operation of an auto race
22 track facility, including, but not limited to, grandstands, suites and viewing
23 areas, concessions, souvenir facilities, catering facilities, visitor and retail
24 centers, signage and temporary hospitality facilities, but excluding (2) ho-
25 tels, motels, restaurants and retail facilities, not directly related to or nec-
26 essary to the operation of such facility.

27 (b) "Base year assessed valuation" means the assessed valuation of all
28 real property within the boundaries of a redevelopment district on the
29 date the redevelopment district was established.

30 (c) "Blighted area" means an area which:

31 (1) Because of the presence of a majority of the following factors,
32 substantially impairs or arrests the development and growth of the mu-
33 nicipality or constitutes an economic or social liability or is a menace to
34 the public health, safety, morals or welfare in its present condition and
35 use:

- 36 (A) A substantial number of deteriorated or deteriorating structures;
37 (B) predominance of defective or inadequate street layout;
38 (C) unsanitary or unsafe conditions;
39 (D) deterioration of site improvements;
40 (E) tax or special assessment delinquency exceeding the fair market
41 value of the real property;
42 (F) defective or unusual conditions of title including but not limited
43 to cloudy or defective titles, multiple or unknown ownership interests to

- 1 the property;
- 2 (G) improper subdivision or obsolete platting or land uses;
- 3 (H) the existence of conditions which endanger life or property by
- 4 fire or other causes; or
- 5 (I) conditions which create economic obsolescence; or
- 6 (2) has been identified by any state or federal environmental agency
- 7 as being environmentally contaminated to an extent that requires a re-
- 8 medial investigation; feasibility study and remediation or other similar
- 9 state or federal action; or
- 10 (3) previously was found by resolution of the governing body to be a
- 11 slum or a blighted area under K.S.A. 17-4742 *et seq.*, and amendments
- 12 thereto.
- 13 (d) "Conservation area" means any improved area comprising 15%
- 14 or less of the land area within the corporate limits of a city in which 50%
- 15 or more of the structures in the area have an age of 35 years or more,
- 16 which area is not yet blighted, but may become a blighted area due to
- 17 the existence of a combination of two or more of the following factors:
- 18 (1) Dilapidation, obsolescence or deterioration of the structures;
- 19 (2) illegal use of individual structures;
- 20 (3) the presence of structures below minimum code standards;
- 21 (4) building abandonment;
- 22 (5) excessive vacancies;
- 23 (6) overcrowding of structures and community facilities; or
- 24 (7) inadequate utilities and infrastructure.
- 25 (e) "De minimus" means an amount less than 15% of the land area
- 26 within a redevelopment district.
- 27 (f) "Developer" means any person, firm, corporation, partnership or
- 28 limited liability company, other than a city.
- 29 (g) "Eligible area" means a blighted area, conservation area, enter-
- 30 prise zone, historic theater ~~or~~, major tourism area *or a major commer-*
- 31 *cial entertainment and tourism area as determined by the secretary,*
- 32 *but "eligible area" shall not include a gambling casino.*
- 33 (h) "Enterprise zone" means an area within a city that was designated
- 34 as an enterprise zone prior to July 1, 1992, pursuant to K.S.A. 12-17,107
- 35 through 12-17,113, and amendments thereto, prior to its repeal and the
- 36 conservation, development or redevelopment of the area is necessary to
- 37 promote the general and economic welfare of such city.
- 38 (i) "Environmental increment" means the increment determined
- 39 pursuant to subsection (b) of K.S.A. 12-1771a, and amendments thereto.
- 40 (j) "Environmentally contaminated area" means an area of land hav-
- 41 ing contaminated groundwater or soil which is deemed environmentally
- 42 contaminated by the department of health and environment or the United
- 43 States environmental protection agency.

1 (k) "Feasibility study" means a study which shows whether a rede-
2 velopment or special bond project's benefits and tax increment revenue
3 and other available revenues under K.S.A. 12-1774 (a)(1), and amend-
4 ments thereto, are expected to exceed or be sufficient to pay for the
5 redevelopment or special bond project costs.

6 (l) "Historic theater" means a building constructed prior to 1940
7 which was constructed for the purpose of staging entertainment, includ-
8 ing motion pictures, vaudeville shows or operas, that is operated by a
9 nonprofit corporation and is designated by the state historic preservation
10 officer as eligible to be on the Kansas register of historic places or is a
11 member of the Kansas historic theatre association.

12 (m) "Historic theater sales tax increment" means the amount of state
13 and local sales tax revenue imposed pursuant to K.S.A. 12-187 et seq., 79-
14 3601 et seq. and 79-3701 et seq., and amendments thereto, collected from
15 taxpayers doing business within the historic theater that is in excess of
16 the amount of such taxes collected prior to the designation of the building
17 as a historic theater for purposes of this act.

18 (n) "Major tourism area" means an area for which the secretary has
19 made a finding the capital improvements costing not less than
20 \$100,000,000 will be built in the state to construct an auto race track
21 facility.

22 (o) "Real property taxes" means all taxes levied on an ad valorem basis
23 upon land and improvements thereon.

24 (p) "Redevelopment project area" or "project area" means an area
25 designated by a city within a redevelopment district.

26 (q) "Redevelopment project costs" means those costs necessary to
27 implement a redevelopment plan, including, but not limited to costs in-
28 curred for:

- 29 (1) Acquisition of property within the redevelopment project area;
- 30 (2) payment of relocation assistance;
- 31 (3) site preparation including utility relocations;
- 32 (4) sanitary and storm sewers and lift stations;
- 33 (5) drainage conduits, channels, and levees;
- 34 (6) street grading, paving, graveling, macadamizing, curbing, gutter-
35 ing and surfacing;
- 36 (7) street light fixtures, connection and facilities;
- 37 (8) underground gas, water, heating and electrical services and con-
38 nections located within the public right-of-way;
- 39 (9) sidewalks and pedestrian underpasses or overpasses;
- 40 (10) drives and driveway approaches located within the public right-
41 of-way;
- 42 (11) water mains and extensions;
- 43 (12) plazas and arcades;

And river walk canal facilities

- 1 (13) parking facilities;
- 2 (14) landscaping and plantings, fountains, shelters, benches, sculp-
- 3 tures, lighting, decorations and similar amenities; and
- 4 (15) all related expenses to redevelop and finance the redevelopment
- 5 project.

6 Redevelopment project costs shall not include costs incurred in con-
 7 nection with the construction of buildings or other structures to be owned
 8 by or leased to a developer, however, the "redevelopment project costs"
 9 shall include costs incurred in connection with the construction of build-
 10 ings or other structures to be owned or leased to a developer which in-
 11 cludes an auto race track facility or is in a redevelopment district including
 12 some or all of the land and buildings comprising a state mental institution
 13 closed pursuant to section 2 of chapter 219 of the 1995 Session Laws of
 14 Kansas.

15 (r) "Redevelopment district" means the specific area declared to be
 16 an eligible area in which the city may develop one or more redevelopment
 17 projects.

18 (s) "Redevelopment district plan" or "district plan" means the pre-
 19 liminary plan that identifies all of the proposed redevelopment project
 20 areas and identifies in a general manner all of the buildings, facilities and
 21 improvements in each that are proposed to be constructed or improved
 22 in each redevelopment project area.

23 (t) "Redevelopment project" means the approved project to imple-
 24 ment a project plan for the development of the established redevelop-
 25 ment district.

26 (u) "Redevelopment project plan" or "project plan" means the plan
 27 adopted by a municipality for the development of a redevelopment pro-
 28 ject or projects which conforms with K.S.A. 12-1772, and amendments
 29 thereto, in a redevelopment district.

30 (v) "Secretary" means the secretary of commerce and housing.

31 (w) "Substantial change" means, as applicable, a change wherein the
 32 proposed plan or plans differ substantially from the intended purpose for
 33 which the district plan or project plan was approved.

34 (x) "Tax increment" means that amount of real property taxes col-
 35 lected from real property located within the redevelopment district that
 36 is in excess of the amount of real property taxes which is collected from
 37 the base year assessed valuation.

38 (y) "Taxing subdivision" means the county, city, unified school district
 39 and any other taxing subdivision levying real property taxes, the territory
 40 or jurisdiction of which includes any currently existing or subsequently
 41 created redevelopment district.

42 (z) "Special bond project" means a project with at least a \$50,000,000
 43 capital investment and \$50,000,000 in projected gross annual sales reve-

(v) river walk canal facilities means a canal and related water features located adjacent to a river which flows through a major commercial entertainment and tourism area and facilities related or contiguous thereto, including, but not limited to pedestrian walkways and promenades, hotels, retail and commercial facilities, landscaping and parking facilities

renumber the following sections accordingly

1 *nues or for nonmetropolitan [areas outside of metropolitan] statis-*
 2 *tical areas, as defined by the United States department of commerce*
 3 *or its successor agency [federal office of management and budget*
 4 *as of June 30, 1999], the secretary finds the project meets the*
 5 *requirements of subsection (g) and would be of regional or state-*
 6 *wide importance, but a "special bond project" shall not include a*
 7 *project for a gambling casino.*

8 [(aa) "Marketing study" means a study conducted to examine
 9 the impact of the redevelopment or special bond project upon sim-
 10 ilar businesses in the projected market area.

11 [(bb) "Projected market area" means any area within the state
 12 in which the redevelopment or special bond project is projected to
 13 have a substantial fiscal or market impact upon businesses in such
 14 area.]

15 New Sec. 2. (a) The governing body of a city may establish one or
 16 more special bond projects in any area within such city. The special bond
 17 projects shall be eligible for financing by special obligation bonds payable
 18 from revenues described by subsection (a)(1)(D) of K.S.A. 12-1774, and
 19 amendments thereto. Each special bond project shall first be approved
 20 by the secretary. A special bond project shall not be granted to any busi-
 21 ness that proposes to relocate its business from another area of the state
 22 into such city, for the purpose of consideration for a special bond project
 23 and shall not receive any of the benefits provided by K.S.A. 12-1770 *et*
 24 *seq.*, and amendments thereto.

25 (b) The maximum maturity of special obligation bonds payable pri-
 26 marily from revenues described by subsection (a)(1)(D) of K.S.A. 12-
 27 1744, and amendments thereto, to finance special bond projects pursuant
 28 to this section shall not exceed 20 years, unless the secretary shall find
 29 and determine that a maturity greater than 20 years, but in no event
 30 greater than 30 years, is necessary for the economic feasibility of any such
 31 special bond project.

32 New Sec. 3. (a) Any city proposing to undertake a special bond pro-
 33 ject established pursuant to section 2, and amendments thereto, shall
 34 prepare a project plan in consultation with the planning commission of
 35 the city. The project plan shall include:

36 (1) A summary of the feasibility study done as defined in K.S.A. 12-
 37 1770a, and amendments thereto, which will be an open record;

38 [(2) a summary of the marketing study done as defined in K.S.A.
 39 12-1770a, and amendments thereto, which will be an open record;]

40 ~~(2)~~ [(3)] a reference to the district plan established under K.S.A. 12-
 41 1771, and amendments thereto, that identifies the project area that is set
 42 forth in the project plan that is being considered;

43 ~~(3)~~ [(4)] a description and map of the location of the facility that is

The secretary may also make such a finding with respect to any special bond project located in a redevelopment district established by a city prior to the effective date of this act.

1 the subject of the special bond project;
2 ~~(4)~~ [(5)] the relocation assistance plan required by K.S.A. 12-1777,
3 and amendments thereto;

4 ~~(5)~~ [(6)] a detailed description of the buildings and facilities pro-
5 posed to be constructed or improved; and

6 ~~(6)~~ [(7)] any other information the governing body deems necessary
7 to advise the public of the intent of the special bond project plan.

8 (b) *Resolution requirements.* A copy of the project plan shall be de-
9 livered to the board of county commissioners of the county and the board
10 of education of any school district levying taxes on property subject to the
11 special bond project. Upon a finding by the planning commission **of the**
12 **city** that the project plan is consistent with the intent of the comprehen-
13 sive plan for the development of the city, the governing body of the city
14 shall adopt a resolution stating that the city is considering the adoption
15 of the project plan. Such resolution shall:

16 (1) Give notice that a public hearing will be held to consider the
17 adoption of the project plan and fix the date, hour and place of such
18 public hearing;

19 (2) describe the boundaries of the area subject to the special bond
20 project; and

21 (3) state that the project plan, including a summary of the feasibility
22 study, relocation assistance plan and financial guarantees of the prospec-
23 tive developer and a description and map of the area to be developed are
24 available for inspection during regular office hours in the office of the
25 city clerk.

26 (c) (1) *Hearing.* The date fixed for the public hearing shall be not
27 less than 30 nor more than 70 days following the date of the adoption of
28 the resolution fixing the date of the hearing.

29 (2) A copy of the resolution providing for the public hearing shall be
30 by certified mail, return receipt requested sent to the board of county
31 commissioners of the county and the board of education of any school
32 district levying taxes on property subject to the special bond project. The
33 resolution shall be published once in the official city newspaper not less
34 than one week nor more than two weeks preceding the date fixed for the
35 public hearing. A description in sufficient detail to advise the reader of
36 the particular proposed special bond project shall be published with the
37 resolution.

38 (3) At the public hearing, a representative of the city shall present
39 the city's proposed project plan. Following the presentation of the project
40 plan, all interested persons shall be given an opportunity to be heard. The
41 governing body for good cause shown may recess such hearing to a time
42 and date certain, which shall be fixed in the presence of persons in at-
43 tendance at the hearing.

1 (d) The public hearing records and feasibility study shall be subject
2 to the open records act, K.S.A. 45-215, and amendments thereto.

3 (e) *Posthearing procedure.* Following the public hearing, the govern-
4 ing body may adopt the project plan by ordinance passed upon a $\frac{2}{3}$ vote.

5 (f) Any substantial changes as defined in K.S.A. 12-1770a, and
6 amendments thereto, to the project plan as adopted shall be subject to a
7 public hearing following publication of notice thereof at least twice in the
8 official city newspaper.

9 (g) Any project shall be completed within 20 years from the date of
10 the approval of the project plan.

11 Sec. 4. K.S.A. 12-1774 is hereby amended to read as follows: 12-
12 1774. (a) (1) Any city shall have the power to issue special obligation bonds
13 in one or more series to finance the undertaking of any redevelopment
14 project in accordance with the provisions of this act. Such special obli-
15 gation bonds shall be made payable, both as to principal and interest:

16 (A) From tax increments allocated to, and paid into a special fund of
17 the city under the provisions of K.S.A. 12-1775, and amendments thereto;

18 (B) from revenues of the city derived from or held in connection with
19 the undertaking and carrying out of any redevelopment project or projects
20 under this act including historic theater sales tax increments and envi-
21 ronmental increments;

22 (C) from any private sources, contributions or other financial assis-
23 tance from the state or federal government;

24 (D) from a pledge of a portion or all of the revenue received by the
25 city from transient guest, sales and use taxes collected pursuant to K.S.A.
26 12-1696 *et seq.*, 79-3601 *et seq.*, 79-3701 *et seq.* and 12-187 *et seq.*, and
27 amendments thereto, and which are collected from taxpayers doing busi-
28 ness within that portion of the city's redevelopment district established
29 pursuant to K.S.A. 12-1771, and amendments thereto, occupied by a re-
30 development project if there first is a finding by the secretary of com-
31 merce and housing that the redevelopment project will create a major
32 tourism area for the state or if the project is the restoration of a historic
33 theater as defined in subsection (l) of K.S.A. 12-1770a, and amendments
34 thereto, *or the project has been designated as a special bond project as*
35 *defined in subsection (z) of K.S.A. 12-1770a, and amendments thereto;*

36 (E) (i) from a pledge of a portion or all increased revenue received
37 by the city from franchise fees collected from utilities and other busi-
38 nesses using public right-of-way within the redevelopment district; (ii)
39 from a pledge of a portion or all of the revenue received by the city from
40 sales taxes collected pursuant to K.S.A. 12-187, and amendments thereto;

41 or

42 (F) by any combination of these methods *except that for a project*
43 *which has been designated as a special bond project as defined in*

1 **subsection (z) of K.S.A. 12-1770a and amendments thereto, if a por-**
2 **tion or all of the sales taxes collected under K.S.A. 79-3601 et seq.,**
3 **and amendments thereto, is pledged for such project then a portion**
4 **or all of the sales taxes collected under K.S.A. 12-187 and amend-**
5 **ments thereto shall be pledged for such project.**

6 The city may pledge such revenue to the repayment of such special
7 obligation bonds prior to, simultaneously with, or subsequent to the is-
8 suance of such special obligation bonds.

9 (2) Bonds issued under paragraph (1) of subsection (a) shall not be
10 general obligations of the city, nor in any event shall they give rise to a
11 charge against its general credit or taxing powers, or be payable out of
12 any funds or properties other than any of those set forth in paragraph (1)
13 of this subsection and such bonds shall so state on their face.

14 (3) Bonds issued under the provisions of paragraph (1) of this sub-
15 section shall be special obligations of the city and are declared to be
16 negotiable instruments. They shall be executed by the mayor and clerk
17 of the city and sealed with the corporate seal of the city. All details per-
18 taining to the issuance of such special obligation bonds and terms and
19 conditions thereof shall be determined by ordinance of the city. All special
20 obligation bonds issued pursuant to this act and all income or interest
21 therefrom shall be exempt from all state taxes except inheritance taxes.
22 Such special obligation bonds shall contain none of the recitals set forth
23 in K.S.A. 10-112, and amendments thereto. Such special obligation bonds
24 shall, however, contain the following recitals, viz., the authority under
25 which such special obligation bonds are issued, they are in conformity
26 with the provisions, restrictions and limitations thereof, and that such
27 special obligation bonds and the interest thereon are to be paid from the
28 money and revenue received as provided in paragraph (1) of this
29 subsection.

30 (b) (1) Subject to the provisions of paragraph (2) of this subsection,
31 any city shall have the power to issue full faith and credit tax increment
32 bonds to finance the undertaking of any redevelopment project in ac-
33 cordance with the provisions of K.S.A. 12-1770 et seq., and amendments
34 thereto other than a project that will create a major tourism area or result
35 in the renovation of an historic theater. Such full faith and credit tax
36 increment bonds shall be made payable, both as to principal and interest:
37 (A) From the revenue sources identified in paragraph (1)(A), (B), (C),
38 (D) and (E) of subsection (a) or by any combination of these sources; and
39 (B) subject to the provisions of paragraph (2) of this subsection, from a
40 pledge of the city's full faith and credit to use its ad valorem taxing au-
41 thority for repayment thereof in the event all other authorized sources of
42 revenue are not sufficient.

43 (2) Except as provided in paragraph (3) of this subsection, before the

1 governing body of any city proposes to issue full faith and credit tax in-
2 crement bonds as authorized by this subsection, the feasibility study re-
3 quired by K.S.A. 12-1772, and amendments thereto, shall demonstrate
4 that the benefits derived from the project will exceed the cost and that
5 the income therefrom will be sufficient to pay the costs of the project.
6 No full faith and credit tax increment bonds shall be issued unless the
7 governing body states in the resolution required by K.S.A. 12-1772, and
8 amendments thereto, that it may issue such bonds to finance the proposed
9 redevelopment project. The governing body may issue the bonds unless
10 within 60 days following the date of the public hearing on the proposed
11 project plan a protest petition signed by 3% of the qualified voters of the
12 city is filed with the city clerk in accordance with the provisions of K.S.A.
13 25-3601 *et seq.*, and amendments thereto. If a sufficient petition is filed,
14 no full faith and credit tax increment bonds shall be issued until the
15 issuance of the bonds is approved by a majority of the voters voting at an
16 election thereon. Such election shall be called and held in the manner
17 provided by the general bond law. The failure of the voters to approve
18 the issuance of full faith and credit tax increment bonds shall not prevent
19 the city from issuing special obligation bonds in accordance with K.S.A.
20 12-1774, and amendments thereto. No such election shall be held in the
21 event the board of county commissioners or the board of education de-
22 termines, as provided in K.S.A. 12-1771, and amendments thereto, that
23 the proposed redevelopment district will have an adverse effect on the
24 county or school district.

25 (3) As an alternative to paragraph (2) of this subsection, any city which
26 adopts a project plan but does not state its intent to issue full faith and
27 credit tax increment bonds in the resolution required by K.S.A. 12-1772,
28 and amendments thereto, and has not acquired property in the redevel-
29 opment project area may issue full faith and credit tax increment bonds
30 if the governing body of the city adopts a resolution stating its intent to
31 issue the bonds and the issuance of the bonds is approved by a majority
32 of the voters voting at an election thereon. Such election shall be called
33 and held in the manner provided by the general bond law. The failure of
34 the voters to approve the issuance of full faith and credit tax increment
35 bonds shall not prevent the city from issuing special obligation bonds
36 pursuant to paragraph (1) of subsection (a). Any project plan adopted by
37 a city prior to the effective date of this act in accordance with K.S.A. 12-
38 1772, and amendments thereto, shall not be invalidated by any require-
39 ments of this act.

40 (4) During the progress of any redevelopment project in which the
41 redevelopment project costs will be financed, in whole or in part, with
42 the proceeds of full faith and credit tax increment bonds, the city may
43 issue temporary notes in the manner provided in K.S.A. 10-123, and

1 amendments thereto, to pay the redevelopment project costs for the pro-
2 ject. Such temporary notes shall not be issued and the city shall not ac-
3 quire property in the redevelopment project area until the requirements
4 of paragraph (2) or (3) of this subsection, whichever is applicable, have
5 been met.

6 (5) Full faith and credit tax increment bonds issued under this sub-
7 section shall be general obligations of the city and are declared to be
8 negotiable instruments. They shall be issued in accordance with the gen-
9 eral bond law. All such bonds and all income or interest therefrom shall
10 be exempt from all state taxes except inheritance taxes. The amount of
11 the full faith and credit tax increment bonds issued and outstanding which
12 exceeds 3% of the assessed valuation of the city shall be within the bonded
13 debt limit applicable to such city.

14 (6) Any city issuing special obligation bonds under the provisions of
15 this act may refund all or part of such issue pursuant to the provisions of
16 K.S.A. 10-116a, and amendments thereto.

17 (c) Any increment in ad valorem property taxes resulting from a re-
18 development project in the established redevelopment district under-
19 taken in accordance with the provisions of this act, shall be apportioned
20 to a special fund for the payment of the redevelopment project costs,
21 including the payment of principal and interest on any special obligation
22 bonds or full faith and credit tax increment bonds issued to finance such
23 project pursuant to this act and may be pledged to the payment of prin-
24 cipal and interest on such bonds.

25 Sec. 5. K.S.A. 2002 Supp. 79-3620 is hereby amended to read as
26 follows: 79-3620. (a) All revenue collected or received by the director of
27 taxation from the taxes imposed by this act shall be remitted to the state
28 treasurer in accordance with the provisions of K.S.A. 75-4215, and
29 amendments thereto. Upon receipt of each such remittance, the state
30 treasurer shall deposit the entire amount in the state treasury, less
31 amounts withheld as provided in subsection (b) and amounts credited as
32 provided in subsection (c) and (d), to the credit of the state general fund.

33 (b) A refund fund, designated as "sales tax refund fund" not to exceed
34 \$100,000 shall be set apart and maintained by the director from sales tax
35 collections and estimated tax collections and held by the state treasurer
36 for prompt payment of all sales tax refunds including refunds authorized
37 under the provisions of K.S.A. 79-3635, and amendments thereto. Such
38 fund shall be in such amount, within the limit set by this section, as the
39 director shall determine is necessary to meet current refunding require-
40 ments under this act. In the event such fund as established by this section
41 is, at any time, insufficient to provide for the payment of refunds due
42 claimants thereof, the director shall certify the amount of additional funds
43 required to the director of accounts and reports who shall promptly trans-

1 fer the required amount from the state general fund to the sales tax refund
2 fund, and notify the state treasurer, who shall make proper entry in the
3 records.

4 (c) (1) The state treasurer shall credit $\frac{5}{98}$ of the revenue collected
5 or received from the tax imposed by K.S.A. 79-3603, and amendments
6 thereto, at the rate of 4.9%, and deposited as provided in subsection (a),
7 exclusive of amounts credited pursuant to subsection (d), in the state
8 highway fund.

9 (2) The state treasurer shall credit $\frac{5}{104}$ of the revenue collected or
10 received from the tax imposed by K.S.A. 79-3603, and amendments
11 thereto, at the rate of 5.2%, and deposited as provided in subsection (a),
12 exclusive of amounts credited pursuant to subsection (d), in the state
13 highway fund.

14 (3) The state treasurer shall credit $\frac{5}{106}$ of the revenue collected or
15 received from the tax imposed by K.S.A. 79-3603, and amendments
16 thereto, at the rate of 5.3%, and deposited as provided in subsection (a),
17 exclusive of amounts credited pursuant to subsection (d), in the state
18 highway fund.

19 (4) The state treasurer shall credit $\frac{1}{20}$ of the revenue collected and
20 received from the tax imposed by K.S.A. 79-3603, and amendments
21 thereto, at the rate of 5%, and deposited as provided by subsection (a),
22 exclusive of amounts credited pursuant to subsection (d), in the state
23 highway fund.

24 (d) The state treasurer shall credit all revenue collected or received
25 from the tax imposed by K.S.A. 79-3603, and amendments thereto, as
26 certified by the director, from taxpayers doing business within that por-
27 tion of a redevelopment district occupied by a redevelopment project *or*
28 *taxpayers doing business with such entity financed by a special bond*
29 *project as defined in K.S.A. 12-1770a, and amendments thereto*, that was
30 determined by the secretary of commerce and housing to be of statewide
31 as well as local importance or will create a major tourism area for the
32 state *or the project was designated as a special bond project* as defined
33 in K.S.A. 12-1770a, and amendments thereto, to the city bond finance
34 fund, which fund is hereby created. The provisions of this subsection shall
35 expire when the total of all amounts credited hereunder and under sub-
36 section (d) of K.S.A. 79-3710, and amendments thereto, is sufficient to
37 retire the special obligation bonds issued for the purpose of financing all
38 or a portion of the costs of such redevelopment *or special bond* project.

39 New Sec. 6. Notwithstanding any other provisions of law to the con-
40 trary, copies of all retailers' sales, use and transient guest tax returns filed
41 with the director of the department of revenue in connection with a re-
42 development project area or special bond project for which sales, use and
43 transient guest tax revenues are pledged or otherwise intended to be used

1 in whole or in part for the payment of bonds issued to finance redevelop-
 2 opment or special bond project costs in such redevelopment or special
 3 bond project area, shall be provided by the director of the department of
 4 revenue to the bond trustee, escrow agent or paying agent for such bonds
 5 upon the written request of the municipality within 15 days of receipt by
 6 the director of the department of revenue. The bond trustee, escrow
 7 agent or paying agent shall keep such retailers' sales, use and transient
 8 guest tax returns and the information contained therein confidential, but
 9 may use such information for purposes of allocating and depositing such
 10 sales, use and transient guest tax revenues in connection with the bonds
 11 used to finance redevelopment or special bond project costs in such re-
 12 development or special bond project area. Except as otherwise provided
 13 herein, the sales, use and transient guest tax returns received by the bond
 14 trustee, escrow agent or paying agent shall be subject to the provisions
 15 of K.S.A. 79-3614, and amendments thereto.

16 Sec. 7. K.S.A. 12-1770a and 12-1774 and K.S.A. 2002 Supp. 79-3620
 17 are hereby repealed.

18 Sec. 8. This act shall take effect and be in force from and after its
 19 publication in the [statute book]

20 _____] Kansas register
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SENATE BILL 235

Definitions for "commence work"

"Commence work" means:

(1) timely performed significant steps in furtherance of an approved project

or

(2) the manifest commencement of actual operations on the development site, such as, erecting a building, excavating the ground to lay a foundation or a basement or work of like description which a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed.

or

* (3) to physically break ground or evidence of reasonable forward action on the special bond project.

* This is the definition which was decided on at the committee meeting.

Recommended Changes

Page 2

Technical change - in line 31, strike the comma; strike all in line 32 before the period; and strike the adopted amended language, ", government building or school" because that language does not define "eligible area" but names prohibited projects which are properly set out on page 5 in line 7 which the committee has already approved.

House Economic Development
3-25-03
Attachment 2

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2003

SENATE BILL No. 235

By Committee on Commerce

2-14

AN ACT concerning tax increment financing and sales tax revenue bonds; relating to redevelopment of certain property located throughout the state; amending K.S.A. 12-1770a and 12-1774 and K.S.A. 2002 Supp. 79-3620 and repealing the existing sections.

,

and 74-8936

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 12-1770a is hereby amended to read as follows: 12-1770a. As used in this act, unless the context clearly shows otherwise:

(a) "Auto race track facility" means: (1) An auto race track facility and facilities directly related and necessary to the operation of an auto race track facility, including, but not limited to, grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor and retail centers, signage and temporary hospitality facilities, but excluding (2) hotels, motels, restaurants and retail facilities, not directly related to or necessary to the operation of such facility.

(b) "Base year assessed valuation" means the assessed valuation of all real property within the boundaries of a redevelopment district on the date the redevelopment district was established.

(c) "Blighted area" means an area which:

(1) Because of the presence of a majority of the following factors, substantially impairs or arrests the development and growth of the municipality or constitutes an economic or social liability or is a menace to the public health, safety, morals or welfare in its present condition and use:

- (A) A substantial number of deteriorated or deteriorating structures;
- (B) predominance of defective or inadequate street layout;
- (C) unsanitary or unsafe conditions;
- (D) deterioration of site improvements;
- (E) tax or special assessment delinquency exceeding the fair market value of the real property;
- (F) defective or unusual conditions of title including but not limited to cloudy or defective titles, multiple or unknown ownership interests to

House Economic Development
3-25-03
Attachment 3

1 the property;
 2 (G) improper subdivision or obsolete platting or land uses;
 3 (H) the existence of conditions which endanger life or property by
 4 fire or other causes; or
 5 (I) conditions which create economic obsolescence; or
 6 (2) has been identified by any state or federal environmental agency
 7 as being environmentally contaminated to an extent that requires a re-
 8 medial investigation; feasibility study and remediation or other similar
 9 state or federal action; or
 10 (3) previously was found by resolution of the governing body to be a
 11 slum or a blighted area under K.S.A. 17-4742 *et seq.*, and amendments
 12 thereto.

13 (d) "Conservation area" means any improved area comprising 15%
 14 or less of the land area within the corporate limits of a city in which 50%
 15 or more of the structures in the area have an age of 35 years or more,
 16 which area is not yet blighted, but may become a blighted area due to
 17 the existence of a combination of two or more of the following factors:

- 18 (1) Dilapidation, obsolescence or deterioration of the structures;
- 19 (2) illegal use of individual structures;
- 20 (3) the presence of structures below minimum code standards;
- 21 (4) building abandonment;
- 22 (5) excessive vacancies;
- 23 (6) overcrowding of structures and community facilities; or
- 24 (7) inadequate utilities and infrastructure.

25 (e) "De minimus" means an amount less than 15% of the land area
 26 within a redevelopment district.

27 (f) "Developer" means any person, firm, corporation, partnership or
 28 limited liability company, other than a city.

29 (g) "Eligible area" means a blighted area, conservation area, enter-
 30 prise zone, historic theater ~~or~~ major tourism area *or a major commer-*
 31 *cial entertainment and tourism area as determined by the secretary,*
 32 *but "eligible area" shall not include a gambling casino.*

33 (h) "Enterprise zone" means an area within a city that was designated
 34 as an enterprise zone prior to July 1, 1992, pursuant to K.S.A. 12-17,107
 35 through 12-17,113, and amendments thereto, prior to its repeal and the
 36 conservation, development or redevelopment of the area is necessary to
 37 promote the general and economic welfare of such city.

38 (i) "Environmental increment" means the increment determined
 39 pursuant to subsection (b) of K.S.A. 12-1771a, and amendments thereto.

40 (j) "Environmentally contaminated area" means an area of land hav-
 41 ing contaminated groundwater or soil which is deemed environmentally
 42 contaminated by the department of health and environment or the United
 43 States environmental protection agency.

(d) "Commence work" means to physically break ground or evidence of
 reasonable forward action on a special bond project. **(Approved)**

Reletter subsections accordingly.

, government building or school **(Approved)**

1 (k) "Feasibility study" means a study which shows whether a rede-
2 velopment or special bond project's benefits and tax increment revenue
3 and other available revenues under K.S.A. 12-1774 (a)(1), and amend-
4 ments thereto, are expected to exceed or be sufficient to pay for the
5 redevelopment or special bond project costs.

6 (l) "Historic theater" means a building constructed prior to 1940
7 which was constructed for the purpose of staging entertainment, includ-
8 ing motion pictures, vaudeville shows or operas, that is operated by a
9 nonprofit corporation and is designated by the state historic preservation
10 officer as eligible to be on the Kansas register of historic places or is a
11 member of the Kansas historic theatre association.

12 (m) "Historic theater sales tax increment" means the amount of state
13 and local sales tax revenue imposed pursuant to K.S.A. 12-187 et seq., 79-
14 3601 et seq. and 79-3701 et seq., and amendments thereto, collected from
15 taxpayers doing business within the historic theater that is in excess of
16 the amount of such taxes collected prior to the designation of the building
17 as a historic theater for purposes of this act.

18 (n) "Major tourism area" means an area for which the secretary has
19 made a finding the capital improvements costing not less than
20 \$100,000,000 will be built in the state to construct an auto race track
21 facility.

22 (o) "Real property taxes" means all taxes levied on an ad valorem basis
23 upon land and improvements thereon.

24 (p) "Redevelopment project area" or "project area" means an area
25 designated by a city within a redevelopment district.

26 (q) "Redevelopment project costs" means those costs necessary to
27 implement a redevelopment plan including but not limited to costs in-
28 curred for:

- 29 (1) Acquisition of property within the redevelopment project area;
- 30 (2) payment of relocation assistance;
- 31 (3) site preparation including utility relocations;
- 32 (4) sanitary and storm sewers and lift stations;
- 33 (5) drainage conduits, channels and levees;
- 34 (6) street grading, paving, graveling, macadamizing, curbing, gutter-
- 35 ing and surfacing;
- 36 (7) street light fixtures, connection and facilities;
- 37 (8) underground gas, water, heating and electrical services and con-
- 38 nections located within the public right-of-way;
- 39 (9) sidewalks and pedestrian underpasses or overpasses;
- 40 (10) drives and driveway approaches located within the public right-
- 41 of-way;
- 42 (11) water mains and extensions;
- 43 (12) plazas and arcades;

and the effect, if any, the redevelopment or special bond project will have on
any outstanding special obligation bonds as authorized pursuant to subsection
(a)(1)(D) of K.S.A. 12-1774, and amendments thereto **(Approved)**

(n) "Major commercial entertainment and tourism area" shall include,
but not be limited to, a major multi-sport athletic complex.

(o) "Major multi-sport athletic complex" means an athletic complex
that is utilized for the training of athletes, the practice of athletic teams, the
playing of athletic games or the hosting of events. Such project may include
playing fields, parking lots and other development that may or may not be
contiguous. Such complex shall meet the requirements set out in subsection
(a)(4) of K.S.A. 74-8936, and amendments thereto, regarding retail space.

(Approved)

Reletter subsections accordingly

1 (13) parking facilities;

2 (14) landscaping and plantings, fountains, shelters, benches, sculp-
3 tures, lighting, decorations and similar amenities; and

4 (15) all related expenses to redevelop and finance the redevelopment
5 project.

6 Redevelopment project costs shall not include costs incurred in con-
7 nection with the construction of buildings or other structures to be owned
8 by or leased to a developer, however, the "redevelopment project costs"
9 shall include costs incurred in connection with the construction of build-
10 ings or other structures to be owned or leased to a developer which in-
11 cludes an auto race track facility or is in a redevelopment district including
12 some or all of the land and buildings comprising a state mental institution
13 closed pursuant to section 2 of chapter 219 of the 1995 Session Laws of
14 Kansas.

15 (r) "Redevelopment district" means the specific area declared to be
16 an eligible area in which the city may develop one or more redevelopment
17 projects.

18 (s) "Redevelopment district plan" or "district plan" means the pre-
19 liminary plan that identifies all of the proposed redevelopment project
20 areas and identifies in a general manner all of the buildings, facilities and
21 improvements in each that are proposed to be constructed or improved
22 in each redevelopment project area.

23 (t) "Redevelopment project" means the approved project to imple-
24 ment a project plan for the development of the established redevelop-
25 ment district.

26 (u) "Redevelopment project plan" or "project plan" means the plan
27 adopted by a municipality for the development of a redevelopment pro-
28 ject or projects which conforms with K.S.A. 12-1772, and amendments
29 thereto, in a redevelopment district.

30 (v) "Secretary" means the secretary of commerce and housing.

31 (w) "Substantial change" means, as applicable, a change wherein the
32 proposed plan or plans differ substantially from the intended purpose for
33 which the district plan or project plan was approved.

34 (x) "Tax increment" means that amount of real property taxes col-
35 lected from real property located within the redevelopment district that
36 is in excess of the amount of real property taxes which is collected from
37 the base year assessed valuation.

38 (y) "Taxing subdivision" means the county, city, unified school district
39 and any other taxing subdivision levying real property taxes, the territory
40 or jurisdiction of which includes any currently existing or subsequently
41 created redevelopment district.

42 (z) "Special bond project" means a project with at least a \$50,000,000
43 capital investment and \$50,000,000 in projected gross annual sales reve-

1 ~~nues or for nonmetropolitan~~ [areas outside of metropolitan] statisti-
2 cal areas, as defined by the United States department of commerce
3 ~~or its successor agency~~ [federal office of management and budget
4 as of June 30, 1999], the secretary finds the project meets the
5 requirements of subsection (g) and would be of regional or state-
6 wide importance. but a "special bond project" shall not include a
7 project for a gambling casino.

, government building or school (Approved)

8 [(aa) "Marketing study" means a study conducted to examine
9 the impact of the redevelopment or special bond project upon sim-
10 ilar businesses in the projected market area.

11 [(bb) "Projected market area" means any area within the state
12 in which the redevelopment or special bond project is projected to
13 have a substantial fiscal or market impact upon businesses in such
14 area.]

15 New Sec. 2. (a) The governing body of a city may establish one or
16 more special bond projects in any area within such city. The special bond
17 projects shall be eligible for financing by special obligation bonds payable
18 from revenues described by subsection (a)(1)(D) of K.S.A. 12-1774, and
19 amendments thereto. Each special bond project shall first be approved
20 by the secretary. A special bond project shall not be granted to any busi-
21 ness that proposes to relocate its business from another area of the state
22 into such city, for the purpose of consideration for a special bond project
23 and shall not receive any of the benefits provided by K.S.A. 12-1770 *et*
24 *seq.* and amendments thereto.

(b) A special bond project shall not be granted if granting such project
would cause a default in the payment of any outstanding special obligation
bonds as authorized pursuant to subsection (a)(1)(D) of K.S.A. 12-1774, and
amendments thereto. (Approved)

25 ~~[(1)]~~ The maximum maturity of special obligation bonds payable pri-
26 marily from revenues described by subsection (a)(1)(D) of K.S.A. 12-
27 1744, and amendments thereto, to finance special bond projects pursuant
28 to this section shall not exceed 20 years, unless the secretary shall find
29 and determine that a maturity greater than 20 years, but in no event
30 greater than ~~30~~ years, is necessary for the economic feasibility of any such
31 special bond project.

(c)

25 (Approved)

32 New Sec. 3. (a) Any city proposing to undertake a special bond pro-
33 ject established pursuant to section 2, and amendments thereto, shall
34 prepare a project plan in consultation with the planning commission of
35 the city. The project plan shall include:

36 (1) A summary of the feasibility study done as defined in K.S.A. 12-
37 1770a, and amendments thereto, which will be an open record;

38 [(2) a summary of the marketing study done as defined in K.S.A.
39 12-1770a, and amendments thereto, which will be an open record;]

40 ~~[(3)]~~ a reference to the district plan established under K.S.A. 12-
41 1771, and amendments thereto, that identifies the project area that is set
42 forth in the project plan that is being considered;

43 ~~[(4)]~~ a description and map of the location of the facility that is

1 the subject of the special bond project;

2 ~~++ [(5)]~~ the relocation assistance plan required by K.S.A. 12-1777,
3 and amendments thereto;

4 ~~(5) [(6)]~~ a detailed description of the buildings and facilities pro-
5 posed to be constructed or improved; and

6 ~~(6) [(7)]~~ any other information the governing body deems necessary
7 to advise the public of the intent of the special bond project plan.

8 (b) *Resolution requirements.* A copy of the project plan shall be de-
9 livered to the board of county commissioners of the county and the board
10 of education of any school district levying taxes on property subject to the
11 special bond project. Upon a finding by the planning commission *of the*
12 *city* that the project plan is consistent with the intent of the comprehen-
13 sive plan for the development of the city, the governing body of the city
14 shall adopt a resolution stating that the city is considering the adoption
15 of the project plan. Such resolution shall:

16 (1) Give notice that a public hearing will be held to consider the
17 adoption of the project plan and fix the date, hour and place of such
18 public hearing;

19 (2) describe the boundaries of the area subject to the special bond
20 project; and

21 (3) state that the project plan, including a summary of the feasibility
22 study, relocation assistance plan and financial guarantees of the prospec-
23 tive developer and a description and map of the area to be developed are
24 available for inspection during regular office hours in the office of the
25 city clerk.

26 (c) (1) *Hearing.* The date fixed for the public hearing shall be not
27 less than 30 nor more than 70 days following the date of the adoption of
28 the resolution fixing the date of the hearing

29 (2) A copy of the resolution providing for the public hearing shall be
30 by certified mail, return receipt requested sent to the board of county
31 commissioners of the county and the board of education of any school
32 district levying taxes on property subject to the special bond project. The
33 resolution shall be published once in the official city newspaper not less
34 than one week nor more than two weeks preceding the date fixed for the
35 public hearing. A description in sufficient detail to advise the reader of
36 the particular proposed special bond project shall be published with the
37 resolution.

38 (3) At the public hearing, a representative of the city shall present
39 the city's proposed project plan. Following the presentation of the project
40 plan, all interested persons shall be given an opportunity to be heard. The
41 governing body for good cause shown may recess such hearing to a time
42 and date certain, which shall be fixed in the presence of persons in at-
43 tendance at the hearing.

1 (d) The public hearing records and feasibility study shall be subject
2 to the open records act, K.S.A. 45-215, and amendments thereto.

3 (e) *Posthearing procedure.* Following the public hearing, the govern-
4 ing body may adopt the project plan by ordinance passed upon a $\frac{2}{3}$ vote.

5 (f) Any substantial changes as defined in K.S.A. 12-1770a, and
6 amendments thereto, to the project plan as adopted shall be subject to a
7 public hearing following publication of notice thereof at least twice in the
8 official city newspaper.

9 (g) Any project shall be completed within 20 years from the date of
10 the approval of the project plan.

11 Sec. 4. K.S.A. 12-1774 is hereby amended to read as follows: 12-
12 1774. (a) (1) Any city shall have the power to issue special obligation bonds
13 in one or more series to finance the undertaking of any redevelopment
14 project in accordance with the provisions of this act. Such special obli-
15 gation bonds shall be made payable, both as to principal and interest:

16 (A) From tax increments allocated to, and paid into a special fund of
17 the city under the provisions of K.S.A. 12-1775, and amendments thereto;

18 (B) from revenues of the city derived from or held in connection with
19 the undertaking and carrying out of any redevelopment project or projects
20 under this act including historic theater sales tax increments and envi-
21 ronmental increments;

22 (C) from any private sources, contributions or other financial assis-
23 tance from the state or federal government;

24 (D) from a pledge of a portion or all of the revenue received by the
25 city from transient guest, sales and use taxes collected pursuant to K.S.A.
26 12-1696 *et seq.*, 79-3601 *et seq.*, 79-3701 *et seq.* and 12-187 *et seq.*, and
27 amendments thereto, and which are collected from taxpayers doing busi-
28 ness within that portion of the city's redevelopment district established
29 pursuant to K.S.A. 12-1771, and amendments thereto, occupied by a re-
30 development project if there first is a finding by the secretary of com-
31 merce and housing that the redevelopment project will create a major
32 tourism area for the state or if the project is the restoration of a historic
33 theater as defined in subsection (1) of K.S.A. 12-1770a, and amendments
34 thereto. *or the project has been designated as a special bond project as*
35 *defined in subsection (2) of K.S.A. 12-1770a, and amendments thereto;*

36 (E) (i) from a pledge of a portion or all increased revenue received
37 by the city from franchise fees collected from utilities and other busi-
38 nesses using public right-of-way within the redevelopment district; (ii)
39 from a pledge of a portion or all of the revenue received by the city from
40 sales taxes collected pursuant to K.S.A. 12-187, and amendments thereto;
41 or

42 (F) by any combination of these methods *except that for a project*
43 *which has been designated as a special bond project as defined in*

(h) Any developer of a special bond project shall commence work on such project within two years from the date of adoption of the project plan. Should the developer fail to commence work on the special bond project within the two-year period funding for such project shall cease and the developer of such project shall have one year to appeal to the secretary for reapproval of such project and the funding for it. Should the project be reapproved, the two-year period for commencement shall apply.

(i) The provisions of this act regarding special bond projects shall expire on and after July 1, 2007. **(Approved as amended)**

based upon the feasibility study **(Approved)**

1 ~~subsection (z) of K.S.A. 12-1770a and amendments thereto, if a por-~~
 2 ~~tion or all of the sales taxes collected under K.S.A. 79-3601 et seq.,~~
 3 ~~and amendments thereto, is pledged for such project then a portion~~
 4 ~~or all of the sales taxes collected under K.S.A. 12-187 and amend-~~
 5 ~~ments thereto shall be pledged for such project.~~

not less than 90% of the local sales tax collected shall be pledged for such
 project (Approved)

6 The city may pledge such revenue to the repayment of such special
 7 obligation bonds prior to, simultaneously with, or subsequent to the is-
 8 suance of such special obligation bonds.

9 (2) Bonds issued under paragraph (1) of subsection (a) shall not be
 10 general obligations of the city, nor in any event shall they give rise to a
 11 charge against its general credit or taxing powers, or be payable out of
 12 any funds or properties other than any of those set forth in paragraph (1)
 13 of this subsection and such bonds shall so state on their face.

14 (3) Bonds issued under the provisions of paragraph (1) of this sub-
 15 section shall be special obligations of the city and are declared to be
 16 negotiable instruments. They shall be executed by the mayor and clerk
 17 of the city and sealed with the corporate seal of the city. All details per-
 18 taining to the issuance of such special obligation bonds and terms and
 19 conditions thereof shall be determined by ordinance of the city. All special
 20 obligation bonds issued pursuant to this act and all income or interest
 21 therefrom shall be exempt from all state taxes except inheritance taxes.
 22 Such special obligation bonds shall contain none of the recitals set forth
 23 in K.S.A. 10-112, and amendments thereto. Such special obligation bonds
 24 shall, however, contain the following recitals, viz., the authority under
 25 which such special obligation bonds are issued, they are in conformity
 26 with the provisions, restrictions and limitations thereof, and that such
 27 special obligation bonds and the interest thereon are to be paid from the
 28 money and revenue received as provided in paragraph (1) of this
 29 subsection.

30 (b) (1) Subject to the provisions of paragraph (2) of this subsection,
 31 any city shall have the power to issue full faith and credit tax increment
 32 bonds to finance the undertaking of any redevelopment project in ac-
 33 cordance with the provisions of K.S.A. 12-1770 et seq., and amendments
 34 thereto other than a project that will create a major tourism area or result
 35 in the renovation of an historic theater. Such full faith and credit tax
 36 increment bonds shall be made payable, both as to principal and interest:
 37 (A) From the revenue sources identified in paragraph (1)(A), (B), (C),
 38 (D) and (E) of subsection (a) or by any combination of these sources; and
 39 (B) subject to the provisions of paragraph (2) of this subsection, from a
 40 pledge of the city's full faith and credit to use its ad valorem taxing au-
 41 thority for repayment thereof in the event all other authorized sources of
 42 revenue are not sufficient.

43 (2) Except as provided in paragraph (3) of this subsection, before the

1 governing body of any city proposes to issue full faith and credit tax in-
 2 crement bonds as authorized by this subsection, the feasibility study re-
 3 quired by K.S.A. 12-1772, and amendments thereto, shall demonstrate
 4 that the benefits derived from the project will exceed the cost and that
 5 the income therefrom will be sufficient to pay the costs of the project.
 6 No full faith and credit tax increment bonds shall be issued unless the
 7 governing body states in the resolution required by K.S.A. 12-1772, and
 8 amendments thereto, that it may issue such bonds to finance the proposed
 9 redevelopment project. The governing body may issue the bonds unless
 10 within 60 days following the date of the public hearing on the proposed
 11 project plan a protest petition signed by 3% of the qualified voters of the
 12 city is filed with the city clerk in accordance with the provisions of K.S.A.
 13 25-3601 *et seq.*, and amendments thereto. If a sufficient petition is filed,
 14 no full faith and credit tax increment bonds shall be issued until the
 15 issuance of the bonds is approved by a majority of the voters voting at an
 16 election thereon. Such election shall be called and held in the manner
 17 provided by the general bond law. The failure of the voters to approve
 18 the issuance of full faith and credit tax increment bonds shall not prevent
 19 the city from issuing special obligation bonds in accordance with K.S.A.
 20 12-1774, and amendments thereto. No such election shall be held in the
 21 event the board of county commissioners or the board of education de-
 22 termines, as provided in K.S.A. 12-1771, and amendments thereto, that
 23 the proposed redevelopment district will have an adverse effect on the
 24 county or school district.

25 (3) As an alternative to paragraph (2) of this subsection, any city which
 26 adopts a project plan but does not state its intent to issue full faith and
 27 credit tax increment bonds in the resolution required by K.S.A. 12-1772,
 28 and amendments thereto, and has not acquired property in the redevelop-
 29 ment project area may issue full faith and credit tax increment bonds
 30 if the governing body of the city adopts a resolution stating its intent to
 31 issue the bonds and the issuance of the bonds is approved by a majority
 32 of the voters voting at an election thereon. Such election shall be called
 33 and held in the manner provided by the general bond law. The failure of
 34 the voters to approve the issuance of full faith and credit tax increment
 35 bonds shall not prevent the city from issuing special obligation bonds
 36 pursuant to paragraph (1) of subsection (a). Any project plan adopted by
 37 a city prior to the effective date of this act in accordance with K.S.A. 12-
 38 1772, and amendments thereto, shall not be invalidated by any require-
 39 ments of this act.

40 (4) During the progress of any redevelopment project in which the
 41 redevelopment project costs will be financed, in whole or in part, with
 42 the proceeds of full faith and credit tax increment bonds, the city may
 43 issue temporary notes in the manner provided in K.S.A. 10-123, and

1 amendments thereto, to pay the redevelopment project costs for the pro-
2 ject. Such temporary notes shall not be issued and the city shall not ac-
3 quire property in the redevelopment project area until the requirements
4 of paragraph (2) or (3) of this subsection, whichever is applicable, have
5 been met.

6 (5) Full faith and credit tax increment bonds issued under this sub-
7 section shall be general obligations of the city and are declared to be
8 negotiable instruments. They shall be issued in accordance with the gen-
9 eral bond law. All such bonds and all income or interest therefrom shall
10 be exempt from all state taxes except inheritance taxes. The amount of
11 the full faith and credit tax increment bonds issued and outstanding which
12 exceeds 3% of the assessed valuation of the city shall be within the bonded
13 debt limit applicable to such city.

14 (6) Any city issuing special obligation bonds under the provisions of
15 this act may refund all or part of such issue pursuant to the provisions of
16 K.S.A. 10-116a, and amendments thereto.

17 (c) Any increment in ad valorem property taxes resulting from a re-
18 development project in the established redevelopment district under-
19 taken in accordance with the provisions of this act, shall be apportioned
20 to a special fund for the payment of the redevelopment project costs,
21 including the payment of principal and interest on any special obligation
22 bonds or full faith and credit tax increment bonds issued to finance such
23 project pursuant to this act and may be pledged to the payment of prin-
24 cipal and interest on such bonds.

25 Sec. 5. K.S.A. 2002 Supp. 79-3620 is hereby amended to read as
26 follows: 79-3620. (a) All revenue collected or received by the director of
27 taxation from the taxes imposed by this act shall be remitted to the state
28 treasurer in accordance with the provisions of K.S.A. 75-4215, and
29 amendments thereto. Upon receipt of each such remittance, the state
30 treasurer shall deposit the entire amount in the state treasury, less
31 amounts withheld as provided in subsection (b) and amounts credited as
32 provided in subsection (c) and (d), to the credit of the state general fund.

33 (b) A refund fund, designated as "sales tax refund fund" not to exceed
34 \$100,000 shall be set apart and maintained by the director from sales tax
35 collections and estimated tax collections and held by the state treasurer
36 for prompt payment of all sales tax refunds including refunds authorized
37 under the provisions of K.S.A. 79-3635, and amendments thereto. Such
38 fund shall be in such amount, within the limit set by this section, as the
39 director shall determine is necessary to meet current refunding require-
40 ments under this act. In the event such fund as established by this section
41 is, at any time, insufficient to provide for the payment of refunds due
42 claimants thereof, the director shall certify the amount of additional funds
43 required to the director of accounts and reports who shall promptly trans-

1 fer the required amount from the state general fund to the sales tax refund
2 fund, and notify the state treasurer, who shall make proper entry in the
3 records.

4 (c) (1) The state treasurer shall credit $\frac{5}{100}$ s of the revenue collected
5 or received from the tax imposed by K.S.A. 79-3603, and amendments
6 thereto, at the rate of 4.9%, and deposited as provided in subsection (a),
7 exclusive of amounts credited pursuant to subsection (d), in the state
8 highway fund.

9 (2) The state treasurer shall credit $\frac{5}{100}$ of the revenue collected or
10 received from the tax imposed by K.S.A. 79-3603, and amendments
11 thereto, at the rate of 5.2%, and deposited as provided in subsection (a),
12 exclusive of amounts credited pursuant to subsection (d), in the state
13 highway fund.

14 (3) The state treasurer shall credit $\frac{5}{100}$ of the revenue collected or
15 received from the tax imposed by K.S.A. 79-3603, and amendments
16 thereto, at the rate of 5.3%, and deposited as provided in subsection (a),
17 exclusive of amounts credited pursuant to subsection (d), in the state
18 highway fund.

19 (4) The state treasurer shall credit $\frac{1}{20}$ of the revenue collected and
20 received from the tax imposed by K.S.A. 79-3603, and amendments
21 thereto, at the rate of 5%, and deposited as provided by subsection (a),
22 exclusive of amounts credited pursuant to subsection (d), in the state
23 highway fund.

24 (d) The state treasurer shall credit all revenue collected or received
25 from the tax imposed by K.S.A. 79-3603, and amendments thereto, as
26 certified by the director, from taxpayers doing business within that por-
27 tion of a redevelopment district occupied by a redevelopment project or
28 *taxpayers doing business with such entity financed by a special bond*
29 *project as defined in K.S.A. 12-1770a, and amendments thereto*, that was
30 determined by the secretary of commerce and housing to be of statewide
31 as well as local importance or will create a major tourism area for the
32 state or *the project was designated as a special bond project* as defined
33 in K.S.A. 12-1770a, and amendments thereto, to the city bond finance
34 fund, which fund is hereby created. The provisions of this subsection shall
35 expire when the total of all amounts credited hereunder and under sub-
36 section (d) of K.S.A. 79-3710, and amendments thereto, is sufficient to
37 retire the special obligation bonds issued for the purpose of financing all
38 or a portion of the costs of such redevelopment or *special bond* project.

39 New Sec. 6. Notwithstanding any other provisions of law to the con-
40 trary, copies of all retailers' sales, use and transient guest tax returns filed
41 with the director of the department of revenue in connection with a re-
42 development project area or special bond project for which sales, use and
43 transient guest tax revenues are pledged or otherwise intended to be used

1 in whole or in part for the payment of bonds issued to finance redevelop-
 2 opment or special bond project costs in such redevelopment or special
 3 bond project area, shall be provided by the director of the department of
 4 revenue to the bond trustee, escrow agent or paying agent for such bonds
 5 upon the written request of the municipality within 15 days of receipt by
 6 the director of the department of revenue. The bond trustee, escrow
 7 agent or paying agent shall keep such retailers' sales, use and transient
 8 guest tax returns and the information contained therein confidential, but
 9 may use such information for purposes of allocating and depositing such
 10 sales, use and transient guest tax revenues in connection with the bonds
 11 used to finance redevelopment or special bond project costs in such re-
 12 development or special bond project area. Except as otherwise provided
 13 herein, the sales, use and transient guest tax returns received by the bond
 14 trustee, escrow agent or paying agent shall be subject to the provisions
 15 of K.S.A. 79-3614, and amendments thereto.

16 Sec. 7. K.S.A. 12-1770a~~and 12-1774~~ and K.S.A. 2002 Supp. 79-3620
 17 are hereby repealed.

18 Sec. 8. This act shall take effect and be in force from and after its
 19 publication in the ~~statute book~~

See attachment

And renumber the remaining sections accordingly

, 12-1774 and 74-8936

Kansas register

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Sec. 7. K.S.A. 74-8936 is hereby amended read as follows: 74-8936. (a) As used in this act:

(1) "Board" means the board of trustees of Kansas City Kansas community college;

(2) "foundation" means the Kansas multi-sport and recreation foundation;

(3) "increment" means that amount of state and local sales tax revenue imposed pursuant to K.S.A. 12-187 et seq. and 79-3601 et seq., and amendments thereto, collected from taxpayers doing business within the boundaries of the project area that is in excess of the amount of such taxes collected prior to the date the resolution authorizing the project was adopted by the board;

(4) "project" means the construction of a multi-sport athletic complex and the improvement of facilities within the project area; and

(5) "project area" means the boundaries of the area in which the project will be undertaken as described by the board, but shall not include the boundaries of any redevelopment district in a major tourism area which includes an auto race track facility located in Wyandotte county as follows: Beginning at the intersection of Interstate 70 and Interstate 435; west along Interstate 70 to 118th Street; north along 118th Street to State Avenue; northeasterly along proposed relocated State Avenue to 110th Street; north along 110th Street to Parallel Parkway; east along Parallel Parkway to Interstate 435; South along Interstate 435 to Interstate 70.

(b) The board or the foundation on behalf of the board may undertake a project. Such a project may be undertaken in one or more phases. Prior to undertaking a project, the board shall adopt a resolution stating its intent to undertake the project,

scribing the nature of the proposed project, a detailed description of all of the buildings and facilities that are proposed to

. Such project may include an athletic complex that is utilized for the training of athletes, the practice of athletic teams, the playing of athletic games or the hosting of events. Such project may include playing fields, parking lots and other development that may or may not be contiguous. Retail space may not constitute more than 35% of the total project area. For purposes of calculating the retail percentage, all shared parking areas shall be considered part of the athletic complex. Any project that exceeds \$100,000,000 in total investment of all development phases shall not be subject to subsection (5) of this section

(APPROVED)

be constructed or improved in the project area, describing the boundaries of the area in which the proposed project will be undertaken, giving an estimate of the cost of such project and establishing a date for completion of the project. Any addition or changes to the project which are contrary to such resolution shall be ratified by the same procedure as the original resolution of intent.

(c) If the project area identified by the resolution adopted by the board requires the project area be expanded outside of the boundaries of the college's campus, the governing body of the county in which such property is located first shall approve the boundaries of the project area after holding a public hearing. Prior to holding the public hearing, the governing body shall adopt a resolution stating that such boundaries are subject to approval. Such resolution shall: (1) Give notice that a public hearing will be held to consider the proposed boundaries and fix the date, hour and place of such public hearing; (2) describe the proposed boundaries; (3) describe a proposed project that identifies all of the proposed area and that identifies in a general manner all of the buildings and facilities that are proposed to be constructed or improved in the project area; and (4) state that the governing body will consider approving such expansion beyond the campus boundaries.

A copy of the resolution providing for the public hearing shall be delivered to the board of education of any school district levying taxes on property within the proposed project area. The resolution shall be published once in the official county newspaper not less than one week nor more than two weeks preceding the date fixed for the public hearing. If the resolution

approving the boundaries of the project area is adopted by the governing body of the county, no sales tax increment collected from

taxpayers doing business within the project area, but outside the boundaries of the college campus shall be pledged pursuant to K.S.A. 74-8937 as debt service for payment of principle and interest on any bonds issued for the project until it is first subject to a county-wide election and has received the approval of a majority of the electors of the county voting thereon at an election held pursuant to the notice, publication and other election procedures prescribed by K.S.A. 12-187 and amendments thereto.

(d) Any project may be undertaken in separate development phases. Any project shall be completed on or before the final scheduled maturity of the first series of bonds issued to finance the project.

(e) Any moneys which represent the increment as defined by K.S.A. 74-8936, and amendments thereto, shall be apportioned to a special fund established by the Kansas development finance authority for the payment of the costs of the project, including the payment of principal and interest on any bonds issued to finance such project pursuant to this act and may be pledged to the payment of principal and interest on such bonds. The maximum maturity of bonds issued to finance projects pursuant to this act shall not exceed 30 years from the date of the issuance of the bonds to finance the project.

(f) Before any project is undertaken, the board shall enter into a contract with the lowest responsible bidder among nationally recognized consultants for the preparation of a comprehensive feasibility study. The study shall include:

(1) A determination of whether sufficient revenues may be pledged to pay the debt service on bonds issued to finance the project;

(2) an estimate of revenues likely to be realized through existing sources of income which may be pledged to finance such bonds;

(3) an identification of other sources

of revenue which might be necessary to be
ledged to finance the bonds;

(4) an identification of future economic
trends which may affect the feasibility of
the project;

(5) an identification of opportunity
costs created by the project; and

(6) any other considerations which may
be relevant to determining the feasibility of
the project.

1 ~~nues or for nonmetropolitan [areas outside of metropolitan] statist-~~
2 ~~tical areas, as defined by the United States department of commerce~~
3 ~~or its successor agency [federal office of management and budget~~
4 ~~as of June 30, 1999], the secretary finds the project meets the~~
5 ~~requirements of subsection (g) and would be of regional or state-~~
6 ~~wide importance, but a "special bond project" shall not include a~~
7 ~~project for a gambling casino.~~

8 [(aa) "Marketing study" means a study conducted to examine
9 the impact of the redevelopment or special bond project upon sim-
10 ilar businesses in the projected market area.

11 [(bb) "Projected market area" means any area within the state
12 in which the redevelopment or special bond project is projected to
13 have a substantial fiscal or market impact upon businesses in such
14 area.]

15 New Sec. 2. (a) The governing body of a city may establish one or
16 more special bond projects in any area within such city. The special bond
17 projects shall be eligible for financing by special obligation bonds payable
18 from revenues described by subsection (a)(1)(D) of K.S.A. 12-1774, and
19 amendments thereto. Each special bond project shall first be approved
20 by the secretary. A special bond project shall not be granted to any busi-
21 ness that proposes to relocate its business from another area of the state
22 into such city, for the purpose of consideration for a special bond project
23 and shall not receive any of the benefits provided by K.S.A. 12-1770 *et*
24 *seq.*, and amendments thereto.

25 ~~(k)~~ The maximum maturity of special obligation bonds payable pri-
26 marily from revenues described by subsection (a)(1)(D) of K.S.A. 12-
27 1744, and amendments thereto, to finance special bond projects pursuant
28 to this section shall not exceed 20 years, unless the secretary shall find
29 and determine that a maturity greater than 20 years, but in no event
30 greater than 30 years, is necessary for the economic feasibility of any such
31 special bond project.

32 New Sec. 3. (a) Any city proposing to undertake a special bond pro-
33 ject established pursuant to section 2, and amendments thereto, shall
34 prepare a project plan in consultation with the planning commission of
35 the city. The project plan shall include:

36 (1) A summary of the feasibility study done as defined in K.S.A. 12-
37 1770a, and amendments thereto, which will be an open record;

38 [(2) a summary of the marketing study done as defined in K.S.A.
39 12-1770a, and amendments thereto, which will be an open record;]

40 ~~(3)~~ [(3)] a reference to the district plan established under K.S.A. 12-
41 1771, and amendments thereto, that identifies the project area that is set
42 forth in the project plan that is being considered;

43 ~~(4)~~ [(4)] a description and map of the location of the facility that is

(b) Any redevelopment project plan in a redevelopment district located in the city of Wichita that is eligible for benefits provided by KSA 12-1774 *et. seq.*, and amendments thereto, and includes an arena or arena like structure shall be subject to approval by a vote by the citizens of Wichita at an election held for this purpose prior to approval by the secretary of commerce and housing.

EXECUTIVE REORGANIZATION ORDER 30

The authority for the issuance of Executive Reorganization Orders is found in Kansas Constitution, Article 1, Section 6, which provides in part as follows:

- a) For the purpose of transferring, abolishing, consolidating or coordinating the whole or any part of any state agency, or the functions thereof, within the executive branch of state government, when the governor considers the same necessary for efficient administration, he may issue one or more executive reorganization orders

Based on the above quoted language, the Governor is permitted to transfer functions from the Kansas Department of Commerce and Housing (KDOCH) to the Kansas Development Finance Authority (KDFA) because the KDFA is within the Executive Branch of State Government.

- The KDFA was created by statute [K.S.A. 74-8901 *et seq.*].
- The Governor appoints the five members of the board of directors of the KDFA [K.S.A. 74-8903(c)].
- The Governor designates the chair and vice-chair person of the KDFA.
- The Governor appoints the president of KDFA who serves at the pleasure of the Governor [K.S.A. 74-8903(g)].
- KDFA is an interdependent instrumentality of this State exercising **essential public functions** [K.S.A. 74-8903(a)].
- The KDFA is authorized to adopt rules and regulations.
- All classified employees in KDOCH transferred to KDFA retain their status as classified employees [ERO 30, § 8(a)].
- All the transferred KDOCH employees retain all retirement benefits and leave balances [ERO 30, § 8(b)].