

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:30 a.m. on February 17, 2004 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Legislative Research  
Susan Kannarr, Legislative Research  
Helen Pedigo, Revisor of Statutes  
Nikki Kraus, Committee Secretary

Conferees appearing before the committee:

Lt. Governor John Moore  
Kevin Rhodes, Cabela's  
Mike Peck, Vice-President for Investments and Portfolio Management, KTEC

Others attending:

See Attached List.

Chairperson Brownlee opened the public hearing on:

**SB 395—Payment sources of sales tax revenue bonds**

The committee was provided with a fiscal note for the bill. (Attachment 1)

The Lieutenant Governor testified in favor of the bill. (Attachment 2)

The committee discussed tax issues on delivered items.

In response to a question from Senator Barone, Mr. Mike Taylor, Unified Government of Wyandotte county, stated that the STAR bonds are a bit ahead of schedule in repayment because of the success of the businesses in the area. The committee discussed the effects of streamline sales tax on these areas and businesses.

Mr. Rhodes testified in favor of the bill. (Attachment 3) In response to questions from the committee, Mr. Rhodes stated that Cabela's had received a private letter ruling from the Graves administration before the company came to the state of Kansas. In regard to nexus in Kansas requiring the payment of sales tax on internet sales, Mr. Rhodes stated that the presence and operation of the Cabela's Kansas City showroom would not create nexus for mail order, internet, or promotions for sales and use tax. The committee quizzed Mr. Rhodes heavily on this point and expressed disagreement on the nexus issue.

The committee discussed existing TIF districts and STAR bond districts.

Chairperson Brownlee opened the public hearing on:

**SB 480--An act concerning incoming taxation; relating to tax credits for investment in qualifying businesses; powers and duties of the Kansas technology enterprise corporation**

Ms. Sparks provided the committee with an explanation of the bill. (Attachment 4)

The Department of Commerce testified that this bill replaces the Capital Formation Company (CFC) article 74-8200, statewide risk capital system. KTEC will supplement the bill within their existing budget. The fiscal impact of the bill is neutral.

Chairperson Brownlee adjourned the meeting. The next meeting will be at 8:30 a.m. on February 18, 2004 in Room 123-S of the Capitol.



February 17, 2004

The Honorable Karin Brownlee, Chairperson  
Senate Committee on Commerce  
Statehouse, Room 136-N  
Topeka, Kansas 66612

Dear Senator Brownlee:

SUBJECT: Fiscal Note for SB 395 by Senate Committee on Commerce

In accordance with KSA 75-3715a, the following fiscal note concerning SB 395 is respectfully submitted to your committee.

SB 395 would strike the phrase "received by the city" from current law regarding transient guest, sales tax and use tax collections from taxpayers doing business within a redevelopment district. This change would ensure that all such tax revenues from businesses within a redevelopment district, whether the taxed goods and services are delivered to a location outside the district or not, would be pledged to the payment of special obligation bonds used to develop the district. The bill would be effective upon publication in the *Kansas Register*.

SB 395 would not have a fiscal effect on state expenditures or revenues; however, it could affect local revenues. The bill would require all local tax revenue generated by taxpayers doing business within a redevelopment district are returned to the city issuing the bonds. The Department of Revenue indicates the bill also would require modifications to the automated tax system. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. However, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, expenditures for outside contract programmer services beyond the Department's current budget may be required.

Sincerely,

Duane A. Goossen  
Director of the Budget

cc: Steve Neske, Department of Revenue  
Judy Moler, Kansas Association of Counties

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Attach # 1

**Testimony on SB 395  
The Senate Committee on Commerce**

**John Moore  
Lt Governor/Secretary of Commerce**

**February 17, 2004**

Chairperson Brownlee and members of the committee, I am John Moore, and as the Secretary of the Kansas Department of Commerce, it is a pleasure to appear before you today in support of Senate Bill 395.

The amendment under consideration to the tax increment financing law is offered to correct potential harm done to Star Bond projects by passage of Streamlined Sales Tax legislation in 2003. As you all are well aware, the use of Star Bonds offers a tremendously important new tool for communities to complete major economic development projects that would provide a regional or statewide benefit.

The Star Bonds infrastructure funding mechanism is built on sales tax (state and local) generated by sales from the Star Bond project or district being available for bond debt service. The Streamlined Sales Tax requires local sales tax to be remitted to the jurisdiction of shipment destination, not point of sale jurisdiction.

Thus, sales by retailers in Star Bond districts that deliver purchased items to other jurisdictions do not retain the local portion of sales tax; it must be remitted to the jurisdiction of delivery. Nebraska Furniture Mart is probably the prime example for retailers whose sales and tax generation would be most impacted. Such instances deserve our attention and corrective action.

This proposal before you would not change the destination sourcing rules (such a change would be a problem for our compliance with the Streamlined Sales Tax Agreement), but it would re-distribute back to the Star Bonds district for repayment of the bonds the local sales tax generated from shipped or delivered sales from a business within that district.

Please note that the state portion of the sales tax on delivered or shipped sales from a Star Bonds district will continue to be pledged to pay off these bonds, but the local sales tax portion will go to the destination-taxing jurisdiction.

A common theme with respect to the impact of Streamlined Sale Tax: the rules changed for Star Bonds projects after the game was already underway. These new implications have the potential to significantly impact Star Bond projects in the following ways:

- Reduce the amount of sales tax revenue that is available to service existing Star Bond debt. Existing Star Bond projects are most affected because their projections and debt structure was built on the premise that the local portion of sales tax revenue would be collected at the point of sale-changing that weakens the financing structure.

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*Attach #2*

- Debt service capacity would also be reduced for future projects if those projects include operations where significant sales deliveries would be made to purchasers in other jurisdictions. Star Bond debt service capacity would be reduced and increased uncertainty would result because sales tax stream is less predictable/reliable.

This proposal offers a way to return the original intent of the Star Bonds law and reinforce this important tool for economic development. I wish to thank the committee for its time and would now stand for questions.

Senate Bill No. 395  
Senate Commerce Committee Hearing  
February 17, 2004

Kevin Rhodes  
Cabela's

Chair Brownlee, Vice Chair Jordan, Committee Members, my name is Kevin Rhodes. I am the Director of Real Estate for Cabela's, Inc. with corporate headquarters located in Sidney, NE. I am here today to testify in favor of senate Bill No. 395.

I believe you know that Cabela's has opened a retail showroom in Village West being part of the Wyandotte County Tourism District. You may also know that Cabela's was the first business to open in the 400 acre Tourism District following the opening of the Kansas Speedway. I would also believe that you know that in the first 4 1/2 months of operation the Cabela's showroom became the number 1 Tourism destination in the State of Kansas attracting approximately 2.4 million visitors. During the first year we estimate that approximately 4.5 million visitors enjoyed the Cabela's retail showroom. Many of those visitors have also enjoyed the other businesses that have opened such as Great Wolf Lodge, Famous Dave's Bar-B-Que, and Nebraska Furniture Mart since Cabela's opening on August 15, 2002.

When Cabela's was first approached by the Unified Government to consider building a retail showroom in the Tourism District we actually rejected the location. Our primary model for considering showroom locations is based on the concentration of our catalog customers. Kansas, while certainly important to our business, was not a State that we were targeting at that time. The Unified Government was tenacious and we ultimately decided to fully explore the potential of the Tourism District and the economic incentives that were being offered to the retail businesses that located there. It was the STAR Bonds that ultimately convinced us to build a showroom. In fact, since opening the store and seeing the development that can occur in a short period of time we have brought numerous City, County and State public official to see the power of the STAR

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Bond legislation. It has become the model by which we encourage other States to follow. Other States have passed similar legislation and several are considering it. You are to be applauded for your foresight and courage to provide this economic development tool.

That brings us to why this legislation has been introduced and why I am here today. When Cabela's made its deal with the Unified Government we relied on the pledge of State and local sales tax collected on sales and use tax collected within the district to be used to retire the STAR Bonds issued. We now find that because of a bill that has subsequently been passed some of the local sales tax, which is generated by the sales within the district, is not being returned to the bondholders. By supporting this legislation, the ability to fulfill that pledge that was made in 2001 will be possible. The end result is the bonds will be paid off more quickly and the State and local governments will be the beneficiary of the Sales Tax sooner.

I want to thank you for the opportunity to provide this testimony and will try to answer any questions you may have for me.



**Kevin T. Rhodes, CCIM**

Director of Real Estate

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*REVISED*  
February 17, 2004

**To:** Senate Commerce Committee  
**From:** Kathie Sparks, Principal Analyst  
**Re:** Senate Bill No. 480

SB 480 would create the Kansas Angel Investor Tax Credit Act. An accredited investor would be allowed a 50 percent tax credit not to exceed \$50,000 of cash investment in a qualified Kansas business and limited to five such cash investments a year beginning in 2006. The last year to receive a tax credit under the provisions of the bill would be 2016. The cumulative aggregate amount of tax credits allowed for the ten-year period would be \$20.0 million.

A qualified Kansas business would be certified by Kansas Technology Enterprise Corporation (KTEC). An accredited investor would be an accredited investor under SEC Rule 501 Regulation D (a single person with annual income of \$200,000, married annual income of \$300,000, or a net worth of \$1.0 million) and is incurring Kansas income tax. The tax credit could be sold and administration costs could be recovered by KTEC from the accredited investor or qualified Kansas business.

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