

MINUTES OF THE HOUSE ECONOMIC DEVELOPMENT COMMITTEE

The meeting was called to order by Chairperson Lana Gordon at 1:30 P.M. on April 26, 2005 in Room 526-S of the Capitol.

All members were present except:

Carl Krehbiel- excused
Judy Loganbill- excused
Todd Novascone- excused

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Renae Jefferies, Revisor of Statutes
Helen Pedigo, Revisor of Statutes
Carlene Maag, Committee Secretary

Conferees appearing before the committee:

Bob Marcusse, Kansas City Area Development
Jeff Boerger, President, Kansas Speedway
Nolen Ellison
Senator Barbara Sharp
Domingo Soto
Steve Goceljak

Others attending:

See attached list.

Chairperson Gordon welcomed the Committee Members back and opened the hearing on **SB 304**.

SB 304 - KDFEA authorized to issue bonds to finance hall of fame, museum or tourist destination of national significance

Bob Marcusse representing the Kansas City Area Development Council spoke as a proponent for **SB 304**. This bill is important to economic development in Western Kansas, eastern Kansas, and to all the Kansas City area.

NASCAR invited four cities to respond to its Hall of Fame project proposal. These four cities included, Atlanta, Charlotte, Daytona and Kansas City. Two other regions, Richmond and Detroit have entered the competition. NASCAR has requested that each competing area address six parameters including: Location, Funding, (capital and operational), Corporate Entity/Management Structure, Marketing, Design Development Team and Experience. A complete list of the bid organizing committee is included later in this summary. (Attachment 1)

NASCAR is the second largest sport in America, is rapidly growing and is the only major sport without a Hall of Fame. It is believed 750 thousand people will want to pass through the proposed Hall of Fame. It is estimated the economic impact will be between 50 and 65 million dollars per year.

Jeff Boerger, President of the Kansas Speedway also spoke as a proponent for **SB 304**. Mr. Boerger believes this project could boost the tourism of the State of Kansas to a level it has not seen to date. 90 thousand people travel daily through the intersection of the proposed site of the Hall of Fame (I-70 and I-435). It is believed the location being offered is going to be above and beyond what the other communities are offering. As people drive up I-70 and I-435, there will be a major impact visually when they see the Hall of Fame. Mr. Boerger presented the Committee Members a drawing of the proposed Hall of Fame.

Written testimony from William W. Sneed, Legislative Counsel, Kansas Speedway Corporation pertaining to **SB304** was given to the Committee Members. (Attachment 2)

Nolen Ellison represented his personal concerns, The Citizens Task Force on Tax and Fiscal Policy for

CONTINUATION SHEET

MINUTES OF THE House Economic Development Committee at 1:30 P.M. on April 26, 2005 in Room 526-S of the Capitol.

Wyandotte County and The Tax Payers League of Wyandotte County presented testimony as an opponent for **SB 304**. The groups represented by Mr. Ellison are not against a proposed NASCAR Museum in Wyandotte County. However, they are against such a publicly subsidized facility in Wyandotte County if taxpayers are again asked to bare an unfair portion of the price of progress.

SB 304 would created more public debt to finance the privately operated NASCAR Hall of Fame. The public debts created by this private development are obligations of the taxpayers of Wyandotte County and the State of Kansas, but the profits from the operations are private revenues. Wyandotte County can no longer afford to publicly subsidize public-private projects that do not add revenue to the coffers of local government.

On behalf of Wyandotte County Taxpayers, I am requesting that you do not advance this economic development legislation in the form of **SB 304** that authorizes additional uses of public funds for private activities that cannot, in the current situation, be adequately monitored, managed or reviewed by local governments and citizen taxpayers. (Attachment 3)

Mr. Ellison also presented the Committee Members information from the Wyandotte County Citizens Task Force on Tax and Fiscal Policy. (Attachment 4)

Chairperson Gordon recognized Senator Bonnie Sharp who gave testimony as an opponent of **SB 304**. The proposed language gives the Department of Commerce a great deal of authority.

In one of the bullet points from the Department of Commerce, Kansas Department of Finance Authority (K DFA) states that the Hall of Fame would be a prize for the area. The debt could come from a variety of streams of revenue. The bonding authority would likely be one of several tools employed to generate the funding which could cost as much as \$100 million. There might not be a liability to the state, but the burden could be shifted to the property owners in Wyandotte County. People in Wyandotte County must be considered if the burden of payment is shifted to them. **SB 304** seems simple, but lacks specific details. (Attachment 5)

Domingo Soto a resident of Wyandotte County spoke as an opponent to **SB 304**. Our county cannot afford another massive tax giveaway to promote the tourism of the State of Kansas. Wyandotte County is the smallest geographic county in the State and has one of the highest tax rates. This legislation proposed to build a NASCAR Hall of Fame would allow another private corporation to build a for profit structure that taxpayers would subsidize. At a minimum, please consider amending **SB 304** to not allow any property tax abatements when they receive STAR bond proceeds.

I strongly support the location of the NASCAR Hall of Fame in Wyandotte County with appropriate levels of incentives and without any property tax abatements. (Attachment 6)

Steve Goceljak a resident of Wyandotte County gave oral testimony as an opponent to **SB 304**. Mr. Goceljak supports the NASCAR Hall of Fame, but thinks the facility needs to pay their fair share of taxes. He asked that the committee, as a minimum, amend the proposed legislation not to allow any property tax abatements on the NASCAR Hall of Fame.

Staff gave a brief overview of **SB 304**.

After an informative question and answer session Chairperson Gordon closed the hearing on **SB 304**.

Representative Hill moved to pass SB 304 favorable for passage. Representative O'Malley seconded the move.

Chairperson Gordon made a substitute motion to amend SB304 as shown in the attached balloon.(Attachment 7) The motion was seconded by Representative Holmes. A vote was taken, substitute motion failed.

Representative Huntington made a substitute motion to amend SB 304 "page 2, section c" to strike lines 22

CONTINUATION SHEET

MINUTES OF THE House Economic Development Committee at 1:30 P.M. on April 26, 2005 in Room 526-S of the Capitol.

and 23 and in line 27 at the end of the sentence add the following sentence. “ The authority may additionally issue bonds for the purpose of financing a hall of fame, museum or tourist designation of national significance as determined by the Secretary of Commerce.” Representative Carlson seconded the motion. A vote was taken, motion passed.

Representative Kuether made a motion to pass out **SB304** favorable as mended. Representative O’Malley seconded the motion. A vote was taken, motion passed.

The meeting adjourned at 4:55 p.m.

HOUSE ECONOMIC DEVELOPMENT COMMITTEE GUEST LIST

DATE: 4-26-05

NAME	REPRESENTING
Bill Sneed	Kansas Speedway
John Datterberg	Kansas Speedway
Jeff Boenger	Kansas Speedway
Domingo Soto	Self
Stephen Boceljak	Self
Bob MARCUSSE	Kansas City Area Dev Council
Keb May	Hewitt Law Firm
Scott Frank	Legislative Post Audit
Steve Weatherford	KDOTA
Matt Jordan	Commerce
Steve Kelly	"

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NASCAR HALL of FAME
at KANSAS CITY, INC.

On January 19, 2005, Governor Sebelius and Mayor Marinovich responded affirmatively to NASCAR's request to submit a competitive proposal for the Hall of Fame project to commemorate the rich history of stock car racing, capture the excitement of America's fastest growing sport and to create tourism in the State of Kansas and the greater Kansas City area. On February 14, 2005 the Governor, Mayor and other leaders from the State and Kansas City region, met with NASCAR executives to express our sincere interest in the project. The NASCAR executives were appreciative of our interest and looked forward to our proposal submittal later this spring.

NASCAR invited to four cities to respond to its Hall of Fame project proposal. These four cities included, Atlanta, Charlotte, Daytona and Kansas City. Since then, two other regions, Richmond and Detroit have entered the competition. NASCAR's proposal was not specific about size or scope of the project. NASCAR has requested that each competing area to address six parameters including: Location, Funding (capital and operational), Corporate Entity/Management Structure, Marketing, Design/Development Team and Experience. Our response is due on May 31, 2005 and a diverse team of State and Kansas City business and economic development officials are leading the response effort. A complete list of the bid organizing committee is included later in this summary.

NASCAR is the fastest growing sport in America with over 75,000,000 domestic fans. NASCAR is actively seeking opportunities to expand into the Northeast U.S., Canada and Mexico. Kansas Speedway is regarded by the fans and drivers as one of, if not the best, track in country. NASCAR officials are extremely proud of the Kansas Speedway as it has set the quality benchmark for all future track development and existing track redevelopment. NASCAR is saturated in the Southeastern U.S. and it is seeking to expand the NASCAR brand nationally with development opportunities in the West and Northwest. The demographic of the NASCAR race fan includes 60% men and 40% women, with 84% of their fans having an average household income in excess of \$35,000 and 60% of their fans having an average household income in excess of \$50,000. NASCAR fans travel on average 250 miles to attend any given race.

In our recent meeting with the France Family and several other principals of NASCAR, they made it clear that they want this to be a world class facility and one that will enhance the brand value of their core business. Our research indicates that this facility would be approximately 100,000 square feet which is consistent with other world-class facilities, such as the Rock n' Roll, National Football League (NFL), Major League Baseball (MLB) and Country Music Halls of Fame. Attendance for the NASCAR Hall of Fame is estimated at approximately 1,000,000 patrons annually. This will result in a metro wide incremental annual increase of 80,000 room nights and produce a total regional economic impact of between \$50,000,000 and \$65,000,000 annually. Based upon industry conventions, we estimate the total development cost of the facility to be on the order of \$100,000,000. We anticipate the project to be financed with a combination of tools including, public finance, monetizing sponsorship and various other means of corporate and governmental support. We believe that 50% of the funding support will be through public sources while the remainder will come from national sponsorship opportunities, local corporate support and net income from operations.

We propose to locate the NASCAR Hall of Fame in Village West a 400 acre regional destination development adjacent to the Kansas Speedway. With this location, traffic will be leveraged by that generated by the Kansas Speedway, as well as the other tourist destinations totaling over 1.7 million square feet of development including Cabela's, Nebraska Furniture Mart, Great Wolf Lodge and the unique destination shops found in the Legends shopping center. All of which will result in over 12,000,000 tourist/patrons annually creating exposure for NASCAR and our corporate partners.

The NASCAR organization is a sophisticated, market-driven organization. Our response must not only address the design, construction, financing and operation of the Hall of Fame, but must also show how the State of Kansas and Kansas City, as a regional tourist destination, can increase their fan base, enhance their brand and favorably impact NASCAR's bottom line. That is why we will need to depend not only on the public funding sources, but also seek investment by the private sector.

Our NASCAR Hall of Fame response team includes:

- State of Kansas
- Unified Government of Wyandotte County/Kansas City, Kansas
- Kansas City Area Development Council
- Greater Kansas City Chamber
- Hispanic Chamber of Commerce
- Johnson County Partnership
- Wyandotte Development, Inc.
- Kansas City Board of Public Utilities
- Greater Kansas City Sports Commission
- VML / PTK (Brand Mgmt/Marketing)
- HOK Sports+Venue+Event (Architecture)
- DMCD (Exhibit Design)
- JE Dunn/Turner Construction (Construction)
- Grant Thornton (Feasibility)
- Gilmore & Bell, PC (Public Finance)
- Stifel, Nicolaus & Company, Inc. (Financial Advisor)
- Stinson Morrison Hecker LLP (Legal)
- Zimmer Real Estate Services (Development)
- Village West Marketing
- Kansas Speedway Corporation

We anticipate that our proposal will cost approximately \$300,000. To date, several of the economic development agencies listed above have committed approximately one-third of these funds. We will need additional support from the philanthropic and corporate community to shore of the remainder of our expected costs. In an effort to prepare a focused response, our team has been broken down into the following sub-committees to address the elements of the proposal as requested by NASCAR.

Our response team structure includes the following teams and team leaders:

Steering Committee

- | | |
|---------------|--|
| Bob Marcusse | Kansas City Area Development Council (KCADC) |
| Doug Bach | Unified Government of Wyandotte County/Kansas City, KS |
| Steve Kelly | State of Kansas |
| Bill Crandall | Zimmer Real Estate Services |

Civic Committee

- | | |
|-------------------------|--|
| Governor Sebelius | State of Kansas |
| Former Mayor Marinovich | Unified Government of Wyandotte County/Kansas City, KS |
| Pete Levi | Greater Kansas City Chamber of Commerce |
| Bill Dunn, Jr. | JE Dunn Construction |

Development / Design Construction

- | | |
|---------------|-----------|
| Jack Boyle | HOK S+V+E |
| Len Soccolich | DMCD |

Marketing / Brand Sponsorships

Kevin Gray	Greater Kansas City Sports Commission
Jeff Boerger	Kansas Speedway Corporation
Mitch Wheeler	VML
Rob Percy	PTK

Funding / Public Finance

Tim Cowden	KCADC
Gary Anderson	Gilmore & Bell, PC

Feasibility

Chuck Finch	Grant Thornton
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Operating Entity

Todd LaSala	Stinson, Morrison, Hecker LLP
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Our team meets weekly and we intend to meet with the NASCAR officials periodically throughout this proposal period. In the coming weeks, we will be taking our message public with the intention of spreading the news of our efforts and gaining even greater momentum by involving the public and corporate community who so passionately follow and care for this sport.

We are seeking the involvement of your organization and would like the opportunity to discuss this exciting proposal in greater detail.

Since the NASCAR Hall of Fame at Kansas City corporation that has been formed is a 501(c)(3) charitable not-for-profit corporation (FEIN #20-2429353), all donations to this effort are tax deductible. All financial questions should be addressed with Sandi Ramsey, Controller, KCADC 816.374.5625 ramsey@thinkKC.com.

Memorandum

TO: THE HONORABLE LANA GORDON
CHAIR, HOUSE ECONOMIC DEVELOPMENT COMMITTEE

FROM: WILLIAM W. SNEED, LEGISLATIVE COUNSEL
KANSAS SPEEDWAY CORPORATION

RE: S.B. 304

DATE: APRIL 26, 2005

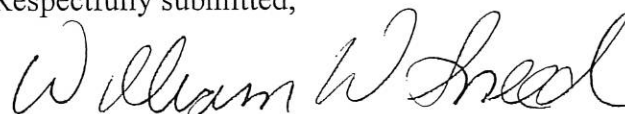
Madam Chair, Members of the Committee: My name is Bill Sneed and I represent the Kansas Speedway Corporation ("Speedway"). The Speedway operates the state-of-the-art raceway facility located in Kansas City, Kansas. We appreciate the opportunity to speak in favor of S.B. 304.

As the Committee will be briefed, the State of Kansas is working diligently to put a package together in order to respond to an RFP in hopes of having the NASCAR Hall of Fame located near the Speedway. Mr. Jeff Boerger, president of the Kansas Speedway Corporation, sits on the steering committee of the NASCAR Hall of Fame of Kansas City, Inc.

We believe the potential for procuring the Hall of Fame in Kansas will only strengthen Kansas as a destination center. In order to have all possible financial alternatives available, and after meeting with members of the KDFFA, we believe this technical amendment is necessary in order to assure the maximum opportunity to procure the museum.

Thus, on behalf of the Speedway, I respectfully request that you act favorably on S.B. 304. I am available for questions.

Respectfully submitted,



William W. Sneed

WWS:kjb

Economic Development Committee
April 26, 2005
Testimony of Wyandotte County Taxpayers League
And Citizens' Task Force on Tax and Fiscal Policy
Room 526 South 1:30pm
Senate Bill 304

INTRODUCTION

Mr. Chairman,
Members of the Committee,
Members of the Wyandotte County Delegation (by copy)

Thank you for the opportunity to speak before you today on S.B. 304

My name is Nolen M. Ellison. I reside in and own property in Wyandotte County.

I am a Convener of the Citizens Task Force on Tax and Fiscal Policy for Wyandotte. I also a member of the Tax Payers League of Wyandotte County. I am here today representing my personal concerns as a citizen-taxpayer of Wyandotte County and with my colleagues representing the two tax payer groups.

SENATE BILL 304

Senate Bill 304 creating an expansion of public financing into the economic activity of museums, hall of fame, or tourist destination is a fairly simple concept until one looks at the actual or potential tax impact upon a local community. We must be clear about this proposed legislation. Citizens of Wyandotte County are concerned about its potential impact upon the Wyandotte County taxpayer. . The question in Wyandotte County is, with all new economic development schemes – Who Pays? Who Benefits? And Who Should Pay? Tax relief, not tax expansion on the backs of property owners, is mandatory in Wyandotte County.

We are not against a proposed NASCAR Museum in Wyandotte County. We are supportive of such a facility. However, we are against such a publicly subsidized facility in Wyandotte County **if taxpayers are again asked to bare an unfair portion of the price of progress.**

The Citizens Task Force on Tax and Fiscal Policy and the Taxpayers League agree to the following:

First, Senate Bill 304 would create more public debt to finance the privately operated NASCR Hall of Fame. The public debts created by this private development are obligations of the taxpayers of Wyandotte County and the State of Kansas but the profits from the operation are private revenues.

Second, a number of years ago the State of Kansas and local taxpayers of Wyandotte County invested large sums of public monies to attract various developments to the State of Kansas and Wyandotte County. Details of these expenditures were fully examined in the recent Kansas Legislative Post Audit report that was authorized by your colleagues. The Citizens Task Force on Tax and Public Policy analyzed the issues surrounding the STAR Bond Project in Wyandotte and released a report addressing the matter on March 18, 2005. It is attached to this testimony.

Clearly, there were loopholes and a lack of oversight by State Government and the local unit of government involved in those bond transactions, development schemes, construction and development agreements. Senate Bill 304 would expand the State of Kansas involvement in a manner that appears to be imprudent given the issues identified and Recommendations of the Legislative Post Audit.

The absence of Legislative requirements for a *Cost Benefit Analysis* for Kansas STAR Bond projects as a basis for State and local decision making along with the *absence of an voter "option" for local citizens to be heard directly* on such schemes is unacceptable to citizens in Wyandotte County.

Third, by creating another category of public-private partnership eligible for public subsidies via the issuance of bonds this legislation could negatively impact the taxpayers of Wyandotte County. Senate Bill 304 provides the mechanism for creating more public debt on a community that will struggle in 2005 and beyond to meet the general fund needs of basic government, critical services and education.

Lastly, this activity of subsidizing economic development projects without fully understanding the long term (20-30 year) implications and ramifications on local budgets and public debt must be stopped. .

Wyandotte County can no longer afford to publicly subsidize public-private projects that do not ADD revenue to the coffers of local government, period. Our community has added over \$400 million in public debt over the last seven years to finance these "private for profit" operations. Clear decision controls and analyses, established through well defined *Cost-Benefit-Analysis Strategies* along with *Citizen Participation options* are minimum requirements for S.B. 304 and any other such legislation.

Taxes in Wyandotte County are now at record high levels and are systematically closing down small businesses in our community. Elderly residents of Wyandotte are over burdened with taxes and are losing their homes do to the current tax rates. Many elderly can no longer afford to live in our county. (my 83 year old mother and cousin are examples) There is no clear UG strategy or plan to bring responsible control to the escalating property tax burden.

In the past seven years there have been 343 businesses that have closed or relocated outside of our community. The primary reason for this is the high taxes that the

businesses must fully pay to subsidize the non payment or tax abated incentives for some new businesses. These policies and practices of governmental entities deciding who gets more profit from their different business enterprises should not be utilized in such a detrimental manner.

The State of Kansas has a general revenue shortfall that has been widely reported in the media and you all are working hard to solve these problems. On behalf of Wyandotte County taxpayers, I am requesting that you do not advance this economic development legislation in the form of Senate Bill 304 that authorizes additional uses of public funds for private activities that cannot, in the current situation, be adequately monitored, managed or reviewed by local governments and citizen taxpayers.

Attachments: A Report to Citizens of Wyandotte County (March 18, 2005 Press Release)
Citizens' Task Force on Tax and Fiscal Policy – A Final Report to Citizens of
Wyandotte County (March 15, 2005)

*Performance Audit Report: Wyandotte County – Reviewing the Use of STAR
Bond Moneys Associated with the Kansas Speedway and Village West
Tourism District (February 2005)

Copies: Wyandotte County Legislative Delegation.

WYANDOTTE COUNTY CITIZENS' TASK FORCE
ON TAX AND FISCAL POLICY

A Report to Citizens of Wyandotte County

For Immediate Release: March 15 or 18

To Citizens of Wyandotte County

For the past ten months the Citizens' Task Force on Tax and Fiscal Policy reviewed numerous documents related to the Kansas-UG STAR Bond Project. The focus was on legislative standards, project management, fiscal accountability and long-term tax issues. The review was conducted by financial experts, attorneys, professional auditors, real estate professionals, construction executives, public policy experts, chief financial officers and several retired government accounting and control professionals.

The continuing work of the Kansas Legislative Post Audit Committee and the LPA Division Report of February 14, 2005 are sources of *facts and legislative intent* regarding the STAR Bond Speedway and Tourist District Projects in Wyandotte County.

Task Force findings, comments, and recommended actions, are included with the report. The findings are based on a thorough review of bond transcripts, UG financial records, memorandums of understanding, and addendums to original Project Management and Venture Partner Agreements. The Task Force also reviewed financial documents related to the creation of the Tourism District obtained from the UG and various principals involved in the development. Information solicited directly from the *UG Information and FACT Source* was used in the preparation of the Report to Citizens.

Task Force findings support the conclusion of the LPA Report of February 14, 2005 that the Unified Government of Wyandotte County inadequately dealt with its fiscal responsibilities related to standard management controls. Of the \$305 million STAR Bonds approved as of 12-31-04, a \$7.1 million requisition payment to RED Development was paid without UG authorization and a \$5,000 barbeque luncheon was paid for in a county where many elderly people cannot pay property taxes or purchase needed medicine. It also appears that as much as \$168 million dollars in public monies may have been misused or inappropriately expended. The questions - ***Who Pays? Who Benefits? Who Should Pay?*** - are key economic development issues in Wyandotte County and demand rebalancing of public and private interests. In the report the Task Force also identified four key problems that shaped the current situation.

Candidates for Mayor/CEO and the UG Board of Commissioners must address these issues as a high priority. Citizens should not support candidates unwilling to do so.

Questions on the Report can be directed to: Nolen M. Ellison, Ph.D.
Co-Convener of Citizens' Task Force

BONNIE SHARP
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STATE CAPITOL—RM. 273-W
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TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 MEMBER: APPROPRIATIONS
 PUBLIC SAFETY BUDGET
 COMMITTEE
 STATE TRIBAL RELATIONS JOINT
 COMMITTEE

Thank you Madam Chair and members of the Economic Development Committee for the opportunity to give testimony today on Senate Bill 304. I am pleased that this committee is having a hearing on this issue. I believe the committee process is needed and this debate will help clarify the intent of this proposal.

I still do not know details about the proposed NASCAR Hall of Fame although it will be located in Wyandotte County. According to a hand out from the Department of Commerce, there is a team with national credentials working on this proposal. Early in the session, I read about this bidding war in the Kansas City Star. At a delegation meeting I inquired about this process and was told that we would be informed as the process proceeded. I also asked if the Hall of Fame was a for-profit or not-for-profit. I was told that it was a for-profit. I guess some things change; however, the lack of communication continues. As of today, I still have not been contacted by what I consider the interested parties concerning this "incredible opportunity". If fact Senate Bill 304 was a complete surprise to me along with other Wyandotte County legislators

I would like to describe my position as cautiously optimistic. I have reservations about the broad implications of this proposal. The proposed language gives the department of commerce a great deal of authority, more than I feel comfortable with. I believe we must be specific about legislative intent or we will revisit this issue again. We have all learned from the past that without specific language, legislative' intend will be by-passed and legal experts will find loopholes. I know that we have learned from past experiences and I appreciate the committee's hard work in re-addressing the Star Bond legislation this session.

In one of the bullet points from the Department of Commerce K DFA states that the Hall of Fame would be a prize for the area. It would not be a liability to the state and the state would have no responsibility for the repayment of such bonds. The debt would or could come from a variety of streams of revenue. The bonding authority would likely be one of several tools employed to generate the funding, which could cost as much as \$100 million. There might not be a liability to the state, but I know this committee realizes that the burden will probably be shifted to the property owners in Wyandotte County. If someone does not pay, others will. I represent 22,500 people in my district and I can tell you, they have given all they can give. We all represent the people of our districts in the State of Kansas. I am the people's voice and I would not be doing my job if I did not speak on their behalf. My district along with many others in Wyandotte County must be considered if we shift this burden of payment to them.

Thank you for your careful consideration of this proposal. I know that Senate Bill 304 seems simple, but the lack of specific details is what troubles me. I am confident that this committee has the experience to address this proposal and I can assure the residents in Wyandotte County that their concerns have been heard.

Bonnie Sharp

House Economic Development
 Attachment 5
 4-26-05

**Economic Development Committee
April 26, 2005**

Mr. Chairman,
Members of the Committee,

Thank you for the opportunity to speak before you today on S.B. 304. My name is Domingo Soto and I reside in Argentine Kansas in Wyandotte County.

My testimony here today is simple. Our County cannot afford another massive tax giveaway to promote the tourism of the State of Kansas. Our county is the smallest geographic county in the State and has one of the highest tax rates.

The primary reason for this high tax rate is the amount of abatements that have been provided by authority of the State and local government without regard to local taxpayers. Many of our residents like myself live on fixed incomes and cannot afford to pay the higher property taxes. Because of the actions of the State of Kansas and local government we are being forced out of our homes. Please do not pass any more legislation that authorizes more property tax abatements for Wyandotte County.

This legislation proposed to build a NASCAR Hall of Fame would allow another private corporation to build a for profit structure that taxpayers would subsidize. This practice of creating specialized tax laws for corporations that hire lobbyists to mine the state for scarce resources must be rejected. At a minimum please consider amending SB 304 to not allow any property tax abatements when they receive STAR bond proceeds.

I strongly support the location of the NASCAR Hall of Fame in Wyandotte County with appropriate levels of incentives and without any property tax abatements.

SENATE BILL No. 304

By Committee on Federal and State Affairs

3-17

Proposed amendment
April 25, 2005

12-1770a, as amended by section 1 of 2005 Senate Substitute for House Bill No. 2144 and

sections

10 AN ACT concerning the development finance authority; regarding au-
11 thority to issue bonds; amending K.S.A. 2004 Supp. 74-8905 and re-
12 pealing the existing [section].
13

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

15 Section 1. K.S.A. 2004 Supp. 74-8905 is hereby amended to read as
16 follows: 74-8905. (a) The authority may issue bonds, either for a specific
17 activity or on a pooled basis for a series of related or unrelated activities
18 or projects duly authorized by a political subdivision or group of political
19 subdivisions of the state in amounts determined by the authority for the
20 purpose of financing projects of statewide as well as local importance,
21 capital improvement facilities, educational facilities, health care facilities
22 and housing developments. Nothing in this act shall be construed to au-
23 thorize the authority to issue bonds or use the proceeds thereof to:

24 (1) Purchase, condemn or otherwise acquire a utility plant or distri-
25 bution system owned or operated by a regulated public utility;

26 (2) finance any capital improvement facilities or educational facilities
27 which are being financed by the issuance of general obligation or utility
28 revenue bonds of a political subdivision, except that the acquisition by
29 the authority of general obligation or utility revenue bonds issued by
30 political subdivisions with the proceeds of pooled bonds shall not violate
31 the provisions of the foregoing; or

32 (3) purchase, acquire, construct, reconstruct, improve, equip, fur-
33 nish, repair, enlarge or remodel property for any swine production facility
34 on agricultural land which is owned, acquired, obtained or leased by a
35 corporation, limited liability company, limited partnership, corporate
36 partnership or trust.

37 Nothing in this subsection (a) shall prohibit the issuance of bonds by
38 the authority when any statute specifically authorizes the issuance of
39 bonds by the authority or approves any activity or project of a state agency
40 for purposes of authorizing any such issuance of bonds in accordance with
41 this section and provides an exemption from the provisions of this sub-
42 section (a).

43 (b) The authority may issue bonds for activities and projects of state

1 agencies as requested by the secretary of administration. Research facilities of state educational institutions shall be subject to the provisions of this subsection (b). No bonds may be issued pursuant to this act for any activity or project of a state agency unless the activity or project either has been approved by an appropriation or other act of the legislature or has been approved by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto. When requested to do so by the secretary of administration, the authority may issue bonds for the purpose of refunding, whether at maturity or in advance of maturity, any outstanding bonded indebtedness of any state agency. The revenues of any state agency which are pledged as security for any bonds of such state agency which are refunded by refunding bonds of the authority may be pledged to the authority as security for the refunding bonds.

16 (c) The authority may issue bonds for the purpose of financing industrial enterprises, transportation facilities, agricultural business enterprises, educational facilities, health care facilities, housing developments, ~~research facilities or a hall of fame, museum or tourist destination of national significance as shall be determined by the secretary of commerce~~ **or as shall be determined by the secretary of commerce, a hall of fame, a museum or tourist destination of national significance**, or any combination of such facilities ~~and research facilities~~, or any interest in facilities, including without limitation leasehold interests in and mortgages on such facilities, whether located within or outside of Kansas. No less than 30 days prior to the issuance of any bonds authorized under this act with respect to any project or activity within Kansas which is to be undertaken for the direct benefit of any person or entity which is not a state agency or a political subdivision, written notice of the intention of the authority to provide financing and issue bonds therefor shall be given by the president of the authority to the governing body of the city in which the project or activity is to be located. If the project or activity is not proposed to be located within a city, such notice shall be given to the governing body of the county. No bonds for the financing of the project or activity shall be issued by the authority for a one-year period if, within 15 days after the giving of such notice, the governing body of the political subdivision in which the project or activity within Kansas is proposed to be located shall have adopted an ordinance or resolution stating express disapproval of the project or activity and shall have notified the president of the authority of such disapproval. The authority shall not issue bonds for the purpose of financing a project or activity outside Kansas unless the authority has determined that the issuance of such bonds provides a benefit to Kansas or its people and that the owner or operator thereof or

a hall of fame, as defined in K.S.A. 12-1770a, located in Wyandotte county

Such authority to issue bonds for a hall of fame, a museum or tourist destination of national significance shall expire on June 30, 2006.

1 resort. The bonds and the interest thereon shall be payable solely from
 2 revenues of the resort and shall not be deemed to be an obligation or
 3 indebtedness of the state within the meaning of section 6 of article 11 of
 4 the constitution of the state of Kansas. The authority may contract with
 5 a subsidiary corporation formed pursuant to subsection (v) of K.S.A. 74-
 6 8904, and amendments thereto, or others to lease or operate such resort.
 7 The provisions of K.S.A. 32-867, 32-868, 32-870 through 32-873 and 32-
 8 874a through 32-874d, and amendments thereto, shall apply to resorts
 9 and bonds issued pursuant to this subsection.

10 (h) The authority may use the proceeds of any bond issues herein
 11 authorized, together with any other available funds, for venture capital
 12 investments or for purchasing, leasing, constructing, restoring, renovat-
 13 ing, altering or repairing facilities as herein authorized, for making loans,
 14 purchasing mortgages or security interests in loan participations and pay-
 15 ing all incidental expenses therewith, paying expenses of authorizing and
 16 issuing the bonds, paying interest on the bonds until revenues thereof are
 17 available in sufficient amounts, purchasing bond insurance or other credit
 18 enhancements on the bonds, and funding such reserves as the authority
 19 deems necessary and desirable. All moneys received by the authority,
 20 other than moneys received by virtue of an appropriation, are hereby
 21 specifically declared to be cash funds, restricted in their use and to be
 22 used solely as provided herein. No moneys of the authority other than
 23 moneys received by appropriation shall be deposited with the state
 24 treasurer.

25 (i) Any time the authority is required to publish a notification pur-
 26 suant to the tax equity and fiscal responsibility act of 1982, the authority
 27 shall further publish such notification in the Kansas register and on the
 28 Kansas development finance authority website.

29 (j) Any time the authority issues private activity bonds, as defined in
 30 K.S.A. 74-5059, and amendments thereto, pursuant to this section, the
 31 authority shall publish notification of such issuance at least 14 days prior
 32 to any bond hearing in the official county newspaper of the county in
 33 which the project or activity financed by such bonds are located and in
 34 the Kansas register.

35 Sec. 2. K.S.A. 2004 Supp. 74-8905 is hereby repealed.

36 Sec. 3. This act shall take effect and be in force from and after its
 37 publication in the statute book.

Sec. 2. K.S.A. 12-1770a here (see attached)

And by renumbering the remaining sections accordingly

12-1770a, as amended by section 1 of 2005 Senate Substitute for
 House Bill No. 2144 and

are

Sec. 2. K.S.A. 2004 Supp. 12-1770a, as amended by section 1 of House Bill No. 2144, is hereby amended to read as follows: 12-1770a. As used in this act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the content:

(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 the property;

(G) improper subdivision or obsolete platting or land uses;

(H) the existence of conditions which endanger life or property by fire or other causes; or

(I) conditions which create economic obsolescence; or

(2) has been identified by any state or federal environmental agency as being environmentally contaminated to an extent that requires a remedial investigation; feasibility study and remediation or other similar state or federal action; or

(3) previously was found by resolution of the governing body to be a slum or a blighted area under K.S.A. 17-4742 et seq., and amendments thereto.

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

two or more of the following factors:

(1) Dilapidation, obsolescence or deterioration of the structures;

(2) illegal use of individual structures;

(3) the presence of structures below minimum code standards;

(4) building abandonment;

(5) excessive vacancies;

(6) overcrowding of structures and community facilities; or

(7) inadequate utilities and infrastructure.

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

(f) "Developer" means any person, firm, corporation, partnership or limited liability company, other than a city and other than an agency, political subdivision or instrumentality of the state or a county when relating to a bioscience development district.

(g) "Eligible area" means a blighted area, conservation area, enterprise zone, historic theater, major tourism area or a major commercial entertainment and tourism area or bioscience development area as determined by the secretary.

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

economic welfare of such city.

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

(j) "Environmentally contaminated area" means an area of land having contaminated groundwater or soil which is deemed environmentally contaminated by the department of health and environment or the United States environmental protection agency.

(k) (1) "Feasibility study" means:

(A) A study which shows whether a redevelopment project's, special bond project's or bioscience development project's benefits and tax increment revenue and other available revenues under subsection (a)(1) of K.S.A. 12-1774, and amendments thereto, are expected to exceed or be sufficient to pay for the redevelopment, special bond or bioscience development project costs; and

(B) the effect, if any, the redevelopment project costs, special bond project or bioscience development project will have on any outstanding special obligation bonds payable from the revenues described in subsections (a)(1)(D) and (a)(1)(G) of K.S.A. 12-1774, and amendments thereto.

(2) For a redevelopment project, special bond project or bioscience project financed by bonds payable from revenues described in subsections (a)(1)(D) and (a)(1)(G) of K.S.A. 12-1774, and amendments thereto, the feasibility study must also

include:

(A) A description of any project submitted under K.S.A. 12-1771d, and amendments thereto, to satisfy the requirements of paragraph (i) of this section;

(B) a statement of how the jobs and taxes obtained from the project will contribute significantly to the economic development of the state and region;

(C) a statement concerning whether a portion of the local sales and use taxes are pledged to other uses and are unavailable as revenue for the redevelopment project. If a portion of local sales and use taxes is so committed, the applicant shall describe the following:

(i) The percentage of sales and use taxes collected that are so committed; and

(ii) the date or dates on which the local sales and use taxes pledged to other uses can be pledged for repayment of special obligation bonds;

(D) an anticipated principal and interest payment schedule on the bonds; and

(E) following approval of the redevelopment plan, the feasibility study will be supplemented to include a copy of the minutes of the governing body meeting or meetings of any city whose bonding authority will be utilized in the project, evidencing that a redevelopment plan has been created, discussed, and adopted by the city in a regularly scheduled open public

meeting.

(3) For a proposed major commercial entertainment and tourism area, the feasibility study must also include:

(A) Visitation expectations;

(B) economic impact;

(C) the unique quality of the project;

(D) the ability of the project to gain sufficient market share to:

(i) Remain profitable past the term of repayment; and

(ii) maintain status as a significant factor for travel decisions;

(E) integration and collaboration with other resources or businesses;

(F) the quality of service and experience provided, as measured against national consumer standards for the specific target market;

(G) project accountability, measured according to best industry practices; and

(H) the expected return on state and local investment that the project is anticipated to produce.

(4) The failure to include all information enumerated in this subsection in the feasibility study for a redevelopment, special bond or bioscience project shall not affect the validity of bonds issued pursuant to this act.

(1) "Historic theater" means a building constructed prior to

1940 which was constructed for the purpose of staging entertainment, including motion pictures, vaudeville shows or operas, that is operated by a nonprofit corporation and is designated by the state historic preservation officer as eligible to be on the Kansas register of historic places or is a member of the Kansas historic theatre association.

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

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

(o) "Real property taxes" means all taxes levied on an ad valorem basis upon land and improvements thereon, except that when relating to a bioscience development district, as defined in this section, "real property taxes" does not include property taxes levied for schools, pursuant to K.S.A. 72-6431, and amendments thereto.

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

(q) "Redevelopment project costs" means those costs necessary to implement a redevelopment project plan or a bioscience development project plan, including costs incurred for:

(1) Acquisition of property within the redevelopment project area;

(2) payment of relocation assistance pursuant to a relocation assistance plan as provided in K.S.A. 12-1777, and amendments thereto;

(3) site preparation including utility relocations;

(4) sanitary and storm sewers and lift stations;

(5) drainage conduits, channels, levees and river walk canal facilities;

(6) street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;

(7) street light fixtures, connection and facilities;

(8) underground gas, water, heating and electrical services and connections located within the public right-of-way;

(9) sidewalks and pedestrian underpasses or overpasses;

(10) drives and driveway approaches located within the public right-of-way;

(11) water mains and extensions;

(12) plazas and arcades;

(13) parking facilities;

(14) landscaping and plantings, fountains, shelters,

benches, sculptures, lighting, decorations and similar amenities;
and

(15) related expenses to redevelop and finance the redevelopment project, except that for a redevelopment project financed with special obligation bonds payable from the revenues described in subsections (a)(1)(D) and (a)(1)(G) of K.S.A. 12-1774, and amendments thereto, such expenses shall require prior approval by the secretary of commerce.

Redevelopment project costs shall not include costs incurred in connection with the construction of buildings or other structures to be owned by or leased to a developer, however, the "redevelopment project costs" shall include costs incurred in connection with the construction of buildings or other structures to be owned or leased to a developer which includes an auto race track facility. In addition, for a redevelopment project financed with special obligation bonds payable from the revenues described in subsections (a)(1)(D) and (a)(1)(G) of K.S.A. 12-1774, and amendments thereto, redevelopment project costs shall not include:

- (1) Fees and commissions paid to real estate agents, financial advisors or any other consultants who represent the businesses considering locating in a redevelopment district;
- (2) salaries for local government employees;
- (3) moving expenses for employees of the businesses locating within the redevelopment district;

(4) property taxes for businesses that locate in the redevelopment district;

(5) lobbying costs;

(6) a bond origination fee charged by the city pursuant to K.S.A. 12-1742, and amendments thereto; and

(7) construction of any part of a hall of fame, as defined in subsection (vv).

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

(s) "Redevelopment district plan" or "district plan" means the preliminary plan that identifies all of the proposed redevelopment project areas and identifies in a general manner all of the buildings, facilities and improvements in each that are proposed to be constructed or improved in each redevelopment project area.

(t) "Redevelopment project" means the approved project to implement a project plan for the development of the established redevelopment district.

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

(v) "Secretary" means the secretary of commerce.

(w) "Substantial change" means, as applicable, a change

wherein the proposed plan or plans differ substantially from the intended purpose for which the district plan or project plan was approved.

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

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

(z) "Special bond project" means a redevelopment project with:

(1) At least a \$50,000,000 capital investment and \$50,000,000 in projected gross annual sales revenues; or

(2) for areas outside of metropolitan statistical areas, as defined by the federal office of management and budget, the secretary finds:

(A) The project meets the requirements of subsection (g); and

(B) would be of regional or statewide importance. A "special bond project" shall not include a project for a gambling casino.

(aa) "Marketing study" means a study conducted to examine the impact of the redevelopment project or special bond project

upon similar businesses in the projected market area.

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

(cc) "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, landscaping and parking facilities.

(dd) "Commence work" means 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.

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

(ff) "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 developments.

(gg) "Bioscience" means the use of compositions, methods and organisms in cellular and molecular research, development and manufacturing processes for such diverse areas as pharmaceuticals, medical therapeutics, medical diagnostics, medical devices, medical instruments, biochemistry, microbiology, veterinary medicine, plant biology, agriculture, industrial environmental and homeland security applications of bioscience and future developments in the biosciences. Bioscience includes biotechnology and life sciences.

(hh) "Bioscience development area" means an area that:

(1) Is or shall be owned, operated, or leased by, or otherwise under the control of the Kansas bioscience authority;

(2) is or shall be used and maintained by a bioscience company; or

(3) includes a bioscience facility.

(ii) "Bioscience development district" means the specific area, created under K.S.A. 12-1771, and amendments thereto, where one or more bioscience development projects may be undertaken.

(jj) "Bioscience development project" means an approved project to implement a project plan in a bioscience development district.

(kk) "Bioscience development project plan" means the plan adopted by the authority for a bioscience development project pursuant to K.S.A. 12-1772, and amendments thereto, in a bioscience development district.

(ll) "Bioscience facility" means real property and all improvements thereof used to conduct bioscience research, including, without limitation, laboratory space, incubator space, office space and any and all facilities directly related and necessary to the operation of a bioscience facility.

(mm) "Bioscience project area" means an area designated by the authority within a bioscience development district.

(nn) "Biotechnology" means those fields focusing on technological developments in such area as molecular biology, genetic engineering, genomics, proteomics, physiomics, nanotechnology, biodefense, biocomputing, bioinformatics and future developments associated with biotechnology.

(oo) "Board" means the board of directors of the Kansas bioscience authority.

(pp) "Life sciences" means the areas of medical sciences, pharmaceutical sciences, biological sciences, zoology, botany, horticulture, ecology, toxicology, organic chemistry, physical chemistry, physiology and any future advances associated with life sciences.

(qq) "Revenue increase" means that amount of real property taxes collected from real property located within the bioscience development district that is in excess of the amount of real property taxes which is collected from the base year assessed valuation.

(rr) "Taxpayer" means a person, corporation, limited

liability company, S corporation, partnership, registered limited liability partnership, foundation, association, nonprofit entity, sole proprietorship, business trust, group or other entity that is subject to the Kansas income tax act, K.S.A. 79-3201 et seq., and amendments thereto.

(ss) "Floodplain increment" means the increment determined pursuant to subsection (b) of K.S.A. 2004 Supp. 12-1771e, and amendments thereto.

(tt) "100-year floodplain area" means an area of land existing in a 100-year floodplain as determined by either an engineering study of a Kansas certified engineer or by the United States federal emergency management agency.

(uu) "Major motorsports complex" means a complex in Shawnee county that is utilized for the hosting of competitions involving motor vehicles, including, but not limited to, automobiles, motorcycles or other self-propelled vehicles other than a motorized bicycle or motorized wheelchair. Such project may include racetracks, all facilities directly related and necessary to the operation of a motorsports complex, including, but not limited to, parking lots, grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor and retail centers, signage and temporary hospitality facilities, but excluding hotels, motels, restaurants and retail facilities not directly related to or necessary to the operation of such facility.

(vv) "Hall of fame" means a hall of fame, a museum or tourist destination of national significance, as determined by the secretary of commerce.