

Approved: April 29, 2005
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:37 A.M. on March 22, 2005 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department
Helen Pedigo, Revisor of Statutes
Jackie Lunn, Committee Secretary

Conferees appearing before the committee:

Others attending:

See attached list.

Chairperson Brownlee opened the meeting by announcing the Committee would take action on **HB 2299**. She stated she had an amendment she would like to present to the Committee. (Attachment 1) Chairperson Brownlee explained her amendment which is a new Section 2. Her amendment would completely reorganize the Workers Compensation Advisory Council. The council would be composed of the Director of Workers Compensation or the Director's designee from the Division of Workers Compensation who shall serve ex officio and seven members who shall be appointed in accordance with Section 2 of the bill. Each member of the Advisory Council shall serve at the pleasure of the Legislature. The provisions of this act regarding the Advisory Council shall expire on July 1, 2007.

The Chair recognized Senator Barone for his comments on the amendment presented by Chairperson Brownlee. Senator Barone has concerns with the amendment being such a dramatic change and how it would impact many people in the state. He made reference to the fact that the number for a quorum had already been changed in a previous bill in the Committee. He feels that the Secretary of Labor is trying to do things to bring the council together.

Chairperson Brownlee recognized Senator Schodorf. Senator Schodorf is in favor of this amendment and thinks is a very good idea and something needs to be done to improve the council.

Chairperson Brownlee recognized Senator Jordan. Senator Jordan stated he agreed with Senator Schodorf. The council needs improvement. He stated the Committee could not get any recommendations on work comp bills because they don't have a quorum and have to cancel the meetings.

Chairperson Brownlee recognized Senator Reitz. Senator Reitz also thinks the amendment is a good idea.

Chairperson Brownlee recognized Senator Kelly. Senator Kelly stated she would like to slow down and agrees with Senator Barone that it will be a major change. She stated she is not necessarily opposed to the bill but would like to have more time to hear all sides.

Senator Jordan moved to accept the amendment. Senator Schodorf seconded. Senator Brownlee stated there was a division and asked for a show of hands. Motion carried.

Senator Barone made a substitute motion to put the bill in an interim committee and report back next session. Senator Kelly seconded. Motion did not carry.

Senator Schodorf moved the bill out favorably as amended. Senator Jordan seconded. Motion carried with Senator Barone and Senator Kelly voting no.

Chairperson Brownlee recognized Senator Wysong who made the statement he had passed on all these votes because he doesn't feel he has been on the Committee long enough.

Chairperson Brownlee recognized Senator Barone. He stated he felt the Committee should have access to

these amendments before they are presented to the Committee.

Chairperson Brownlee turned the meeting over to Chairperson Jordan. Chairperson Jordan asked Helen Pedigo to explain SUB HB 2012 and the balloon. Ms. Pedigo stated SUB HB 2012 would amend sales tax and revenue (STAR) bonds and tax incremental financing bond law. (Attachment 2) Ms. Pedigo reviewed the balloon to SUB HB 2012 with an explanation on each one and some discussion with the Committee. (Attachment 3)

Upon the conclusion of the explanation of the amendments to SUB HB 2012 Senator Schodorf moved the balloon for HB2012 into HB 2144. Seconded by Senator Emler. Motion Carried.

Senator Barone moved to take the cap on STAR Bonds for Wyandotte County from \$310 million to \$305 million, Page 12, line 35. Seconded by Senator Wysong. Motion carried.

A discussion continued with the Committee regarding the cap on the bonds with the cities having the option to issue their own bonds to finish up the project. The discussion continued with the amount of the bonds issued being \$284 million and the limit being \$305 million with \$20 million left.

Chairperson Jordan stated the Committee will work more on this bill on another day due to the time.

The meeting was adjourned at 9:30 a.m with the next meeting scheduled for Wednesday, March 23, 2005 at 8:30 a.m. in room 123S.

As Amended by House Committee

Session of 2005

HOUSE BILL No. 2299

By Committee on Commerce and Labor

Proposed Amendment
Senator Brownlee
March 22, 2005

2-4

10 AN ACT concerning workers compensation; relating to membership on
11 the advisory panel; amending K.S.A. 2004 Supp. 44-510i and repealing
12 the existing section;

and advisory council

and 44-596

sections

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2004 Supp. 44-510i is hereby amended to read as
16 follows: 44-510i. (a) The director shall appoint, subject to the approval of
17 the secretary, a specialist in health services delivery, who shall be referred
18 to as the medical administrator. The medical administrator shall be a
19 person licensed to practice medicine and surgery in this state and shall
20 be in the unclassified service under the Kansas civil service act.

21 (b) The medical administrator, subject to the direction of the direc-
22 tor, shall have the duty of overseeing the providing of health care services
23 to employees in accordance with the provisions of the workers compen-
24 sation act, including but not limited to:

25 (1) Preparing, with the assistance of the advisory panel, the fee sched-
26 ule for health care services as set forth in this section;

27 (2) developing, with the assistance of the advisory panel, the utiliza-
28 tion review program for health care services as set forth in this section;

29 (3) developing a system for collecting and analyzing data on expend-
30 itures for health care services by each type of provider under the workers
31 compensation act; and

32 (4) carrying out such other duties as may be delegated or directed by
33 the director or secretary.

34 (c) The director shall prepare and adopt rules and regulations which
35 establish a schedule of maximum fees for medical, surgical, hospital, den-
36 tal, nursing, vocational rehabilitation or any other treatment or services
37 provided or ordered by health care providers and rendered to employees
38 under the workers compensation act and procedures for appeals and re-
39 view of disputed charges or services rendered by health care providers
40 under this section;

41 (1) The schedule of maximum fees shall be reasonable, shall promote
42 health care cost containment and efficiency with respect to the workers
43 compensation health care delivery system, and shall be sufficient to en-

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1 sure availability of such reasonably necessary treatment, care and attend-
2 ance to each injured employee to cure and relieve the employee from
3 the effects of the injury. The schedule shall include provisions and review
4 procedures for exceptional cases involving extraordinary medical proced-
5 ures or circumstances and shall include costs and charges for medical
6 records and testimony.

7 (2) In every case, all fees, transportation costs, charges under this
8 section and all costs and charges for medical records and testimony shall
9 be subject to approval by the director and shall be limited to such as are
10 fair, reasonable and necessary. The schedule of maximum fees shall be
11 revised as necessary at least every two years by the director to assure that
12 the schedule is current, reasonable and fair.

13 (3) Any contract or any billing or charge which any health care pro-
14 vider, vocational rehabilitation service provider, hospital, person or insti-
15 tution enters into with or makes to any patient for services rendered in
16 connection with injuries covered by the workers compensation act or the
17 fee schedule adopted under this section, which is or may be in excess of
18 or not in accordance with such act or fee schedule, is unlawful, void and
19 unenforceable as a debt.

20 (d) There is hereby created an advisory panel to assist the director in
21 establishing a schedule of maximum fees as required by this section. The
22 panel shall consist of the commissioner of insurance and ~~seven~~ *eight* **nine**
23 members appointed as follows: One person shall be appointed by the
24 Kansas medical society; one member shall be appointed by the Kansas
25 association of osteopathic medicine; one member shall be appointed by
26 the Kansas hospital association; one member shall be appointed by the
27 Kansas chiropractic association; *one member shall be appointed by the*
28 *Kansas physical therapy association*, **one member shall be appointed**
29 **by the Kansas occupational therapy association** and three members
30 shall be appointed by the secretary. Of the members appointed by the
31 secretary, one shall be a representative of employers recommended to
32 the secretary by the Kansas chamber of commerce and industry; one shall
33 be a representative of employees recommended to the secretary by the
34 Kansas AFL-CIO; and one shall be a representative of providers of vo-
35 cational rehabilitation services pursuant to K.S.A. 44-510g and amend-
36 ments thereto. Each appointed member shall be appointed for a term of
37 office of two years which shall commence on July 1 of the year of ap-
38 pointment. Members of the advisory panel attending meetings of the
39 advisory panel, or attending a subcommittee of the advisory panel au-
40 thorized by the advisory panel, shall be paid subsistence allowances, mile-
41 age and other expenses as provided in K.S.A. 75-3223 and amendments
42 thereto.

43 (e) All fees and other charges paid for such treatment, care and at-

1 tendance, including treatment, care and attendance provided by any
 2 health care provider, hospital or other entity providing health care serv-
 3 ices, shall not exceed the amounts prescribed by the schedule of maxi-
 4 mum fees established under this section or the amounts authorized pur-
 5 suant to the provisions and review procedures prescribed by the schedule
 6 for exceptional cases. With the exception of the rules and regulations
 7 established for the payment of selected hospital inpatient services under
 8 the diagnosis related group prospective payment system, a health care
 9 provider, hospital or other entity providing health care services shall be
 10 paid either such health care provider, hospital or other entity's usual and
 11 customary charge for the treatment, care and attendance or the maximum
 12 fees as set forth in the schedule, whichever is less. In reviewing and
 13 approving the schedule of maximum fees, the director shall consider the
 14 following:

15 (1) The levels of fees for similar treatment, care and attendance im-
 16 posed by other health care programs or third-party payors in the locality
 17 in which such treatment or services are rendered;

18 (2) the impact upon cost to employers for providing a level of fees
 19 for treatment, care and attendance which will ensure the availability of
 20 treatment, care and attendance required for injured employees;

21 (3) the potential change in workers compensation insurance premi-
 22 ums or costs attributable to the level of treatment, care and attendance
 23 provided; and

24 (4) the financial impact of the schedule of maximum fees upon health
 25 care providers and health care facilities and its effect upon their ability
 26 to make available to employees such reasonably necessary treatment, care
 27 and attendance to each injured employee to cure and relieve the em-
 28 ployee from the effects of the injury.

29 Sec. 2. K.S.A. 2004 Supp. 44-510i is hereby repealed.

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

Insert K.S.A. 44-596 here as Sec. 2 (see attached)

And by renumbering the remaining sections accordingly.

and 44-596 are

Sec. 2. K.S.A. 2004 Supp. 44-596 is hereby amended to read as follows: 44-596. (a) There is hereby established the workers compensation advisory council. The advisory council shall be composed of the director of workers compensation, or the director's designee from the division of workers compensation, a ~~representative of the insurance industry appointed by the commissioner of insurance,~~ and 10 who shall serve ex officio and seven members who shall be appointed ~~by the secretary of labor~~ in accordance with this section. Five Members of the advisory council shall be broadly representative of employers and employees throughout Kansas that are under the workers compensation act and shall be appointed as follows: One member shall be appointed ~~from a list of nominees submitted to~~ by the secretary of labor ~~by the Kansas chamber of commerce and industry and four members shall be appointed from nominees submitted to the secretary of labor by employers or other representatives of employers or other employer organizations.~~ Five members of the advisory council shall be broadly representative of employees throughout Kansas that are under the workers compensation act and shall be appointed as follows: One member shall be appointed from a list of nominees submitted to the secretary of labor by the Kansas A.F.L.-C.I.O. and four members shall be appointed from nominees submitted to the secretary of labor by employees or other representatives of employees or other employee organizations. The representative of the insurance industry shall

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~~be-knowledgeable-of-insurance-underwriting-practices.~~ Two members shall be appointed by the president of the senate, one member shall be appointed by the minority leader of the senate, two members shall be appointed by the speaker of the house of representatives and one member shall be appointed by the minority leader of the house of representatives. The director of workers compensation ~~and-the-representative-of--the--insurance--industry,~~ the chairpersons and ranking minority members of the senate commerce committee and the house commerce and labor committee shall be nonvoting members of the advisory council.

(b) Each member of the advisory council shall serve at the pleasure of the ~~secretary-of-labor~~ legislature. Any vacancy on the advisory council shall be filled by nomination and appointment in the same manner as the original appointment of the member creating the vacancy.

(c) The advisory council shall study the workers compensation act, proposed amendments to the act and such other matters relating thereto that may be recommended by the secretary of labor ~~or,~~ the director of workers compensation or the legislature and shall advise the secretary ~~and,~~ the director and the legislature thereon. The advisory council shall also review and report its recommendations on any legislative bill amending, supplementing or affecting the workers compensation act or rules and regulations adopted thereunder or affecting the administration of such act or rules and regulations, which is introduced in the legislature and which is requested to be

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reviewed and reported on to a standing committee of either house of the legislature to which the bill is currently referred, upon the request of the chairperson of such committee.

(d) The advisory council shall organize by August 1, 2005 and annually thereafter by electing a chairperson and a vice-chairperson and shall meet upon the call of the chairperson. All actions of the advisory council adopting recommendations regarding the workers compensation act or any other matter referred to the advisory committee under subsection (c) shall be ~~by motion-adopted-by-the-affirmative-votein-open-meeting-of-four-of-the-five-voting-members-who-are-appointed-as-representative-of-employers-and-four-of-the-five-voting-members-who--are--appointed-as-representative-of-employees.-All-other-actions-of-the-advisory-council--shall-be-by-motion-adopted-by-the-affirmative-vote-of-at-least-six-voting-members~~ a majority of the members present in open meeting.

(e) The advisory council, in accordance with K.S.A. 74-4319, and amendments thereto, may recess for a closed or executive ~~meeting of-the-members-representing-employers-or-of--the--members representing-employees,-or-of-both-such-groups-of-members-meeting separately,~~ to separately discuss the matters being studied by the advisory council, except that no binding action shall be taken during any such closed or executive meeting.

(f) The members of the advisory council shall serve without compensation, ~~but~~ except that legislators, when attending meetings of the advisory commission, or subcommittee meetings

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thereof authorized by the advisory commission, shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(g) In addition to other matters for study prescribed pursuant to this section, the advisory council shall review the following:

- (1) Competitive state workers compensation funds, including small business competitive funds;
- (2) effectiveness and cost of safety programs;
- (3) safety-based insurance premium rate discounts;
- (4) fees for attorneys representing all parties in workers compensation claims; and
- (5) group-funded self-insurance pools for small businesses.

Each of the studies prescribed by this subsection shall be reviewed and reported to the standing committees of the senate and house of representatives having workers compensation subject matter jurisdiction, ~~---except-that-the-study-of-competitive-state workers-compensation-funds-shall-be-completed-and-reported-to-the legislative-coordinating-council---not---later---than---December---15, 1993.~~

(h) The provisions of this act regarding the advisory council shall expire on and after July 1, 2007.

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SESSION OF 2005

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2012

As Recommended by House Committee on
Economic Development

Brief*

Substitute for HB 2012 would amend sales tax and revenue (STAR) bonds and tax incremental financing bond law. The changes are as follows:

STAR Bonds

- The feasibility study for STAR bonds would require the following information:
 - Description of the project;
 - A statement of how the jobs and taxes obtained from the project will contribute significantly to the economic development of the state and region;
 - A statement concerning whether a portion of the local sales and use taxes is pledged to other uses and unavailable as revenue for the redevelopment project. If a portion of local sales and use taxes is committed, the applicant would describe the following:
 - The percentage of sales and use taxes collected that are committed; and
 - The date or dates on which the local sales and uses taxes pledged to other uses can be pledged for repayment of STAR Bonds;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

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- An anticipated principal and interest payment schedule on the bonds;
- Following approval of the redevelopment plan, the feasibility study would be supplemented to include a copy of the minutes of the governing body meeting or meetings of the city whose bonding authority would be utilized in the project, to show that the redevelopment plan has been created, discussed, and adopted by the city in a regularly scheduled open public meeting.
- For a proposed major commercial entertainment and tourism area applying for STAR Bonds, the feasibility study would be required to also include:
 - visitation expectations;
 - economic impact;
 - the unique quality of the project;
 - the ability of the project to gain sufficient market share to remain profitable past the term of repayment and maintain status as a significant factor for travel decisions;
 - integration and collaboration with other resources or businesses;
 - the quality of service and experience provided, as measured against national consumer standards for the specific target market;
 - project accountability, measured according to best industry practices; and
 - the expected return on state and local investment that the project is anticipated to produce.
- The failure to include all information required in the feasibility study for a redevelopment project would not effect the validity of the bonds issued pursuant to the Act.
- The definition of redevelopment project costs was amended to mean those costs necessary to implement a redevelopment project plan or a bioscience development project plan including costs incurred for:
 - Acquisition of property within the redevelopment project area;

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- payment of relocation assistance for persons dispossessed of ownership of property in a redevelopment district;
 - site preparation including utility relocations;
 - sanitary and storm sewers and lift stations;
 - drainage conduits, channels, levees and river walk canal facilities;
 - street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
 - street light fixtures, connection and facilities;
 - underground gas, water, heating and electrical services and connections located within the public right-of-way;
 - sidewalks and pedestrian underpasses or overpasses;
 - drives and driveway approaches located within the public right-of-way;
 - water mains and extensions;
 - plazas and arcades;
 - parking facilities;
 - landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities; and
 - all related expenses to redevelop and finance the redevelopment project.
- The bill would prohibit the use of STAR bond proceeds from being spent on the construction of buildings or other structures to be owned by or leased to a developer, however, the "redevelopment project costs" would 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, proceeds would not be available for:

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- Fees and commissions paid to real estate agents, financial advisors or any other consultants who represent the businesses considering locating in a redevelopment district;
 - salaries for local government employees;
 - moving expenses for employees of the businesses locating within the redevelopment district;
 - property taxes for businesses that locate in the redevelopment district; and
 - lobbying costs.
- The auto race track facility would be limited to no more than \$310,000,000 of STAR bonds. If the project requires additional STAR bond funding, the Unified Government of Wyandotte County would be required to reapply to the Secretary of Commerce. Under current law, the auto race track facility has no limit on issuing STAR bonds.
 - Any city approved for a STAR bond project would be required to prepare and submit an annual report of the status of any STAR bond project describing the status of the project and any expenditures of the proceeds of the bonds that have occurred since the last annual report and any expenditures of the proceeds expected to occur in the future to the Governor; Kansas, Inc.; and the Legislature by October 1. The reporting requirement also would apply to the auto race track project.
 - Relocation payments would be made to persons, families and businesses who move from real property located in the redevelopment district or who move personal property from real property located in the redevelopment district due to the acquisition of the real property by the city would be considered relocation assistance.
 - The Secretary of Commerce would be required to set a limit on the total amount of STAR bonds that may be issued for any redevelopment project.

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- The Division of Legislative Post Audit would be required to complete an audit of each STAR bond project and the city would pay for the cost of the audit. Any unauthorized payments would be repaid to the bond fund through an agreement with Department of Revenue.

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Tax Increment Financing Act

- The bill, would clarify the tax increment financing statutes and amend the law so that a city may pledge all or a portion of the revenue received from local sales taxes for a local tax increment financing project.
- The bill also would make several technical corrections to the statutes.

Background

The original HB 2012 was developed by the Joint Committee on Economic Development. The substitute bill incorporates the amendments requested in the Legislative Post Audit Study of STAR Bonds. In addition, amendments were added at the request of the Kansas Department of Revenue, Kansas Department of Commerce and bond counsels representing several Kansas cities.

The fiscal note on the bill indicates that passage would have no impact on the state general fund or any administrative impact.

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HOUSE BILL No. 2012

By Joint Committee on Economic Development

12-17

PROPOSED AMENDMENT
JOINT COMMERCE/POST AUDIT/REVENUE/CITY OF OVERLAND
PARK RECOMMENDATIONS
March 15, 2005

9 AN ACT regarding tax increment financing; clarification of statutes;
10 amending K.S.A. 12-1774a and K.S.A. 2004 Supp. 12-1770a, 12-1771,
11 12-1771b, 12-1773, 12-1774, 12-1780b and 12-1780c and repealing the
12 existing sections.

and 12-1777

12-1772,

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2004 Supp. 12-1770a is hereby amended to read
16 as follows: 12-1770a. As used in the ~~bioscience development~~ *this* act, and
17 amendments thereto, the following words and phrases shall have the fol-
18 lowing meanings unless a different meaning clearly appears from the
19 content:

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

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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 and other than an agency,
29 political subdivision or instrumentality of the state or a county when re-
30 lating to a bioscience development district.

31 (g) "Eligible area" means a blighted area, conservation area, enter-
32 prise zone, historic theater, major tourism area or, a major commercial
33 entertainment and tourism area or bioscience development area as de-
34 termined by the secretary.

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

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

42 (j) "Environmentally contaminated area" means an area of land hav-
43 ing contaminated groundwater or soil which is deemed environmentally

1 contaminated by the department of health and environment or the United
2 States environmental protection agency.

(1)

3 (k) "Feasibility study" means:

4 ~~[(A)]~~ (A) A study which shows whether a redevelopment project's, spe-
5 cial bond project's or bioscience development project's benefits and tax
6 increment revenue and other available revenues under K.S.A. 12-1774
7 (a)(1), and amendments thereto, are expected to exceed or be sufficient
8 to pay for the redevelopment or, special bond or bioscience development
9 project costs and;

10 (B) the effect, if any, the redevelopment project costs or, special bond
11 project or bioscience project will have on any outstanding special obliga-
12 tion bonds as authorized pursuant to subsection payable from the reve-
13 nues described in subsections (a)(1)(D) and (a)(1)(G) of K.S.A. 12-1774,
14 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:

15 ~~[(C)]~~ a description of any project submitted under K.S.A. 12-1771d,
16 and amendments thereto, to satisfy the requirements of paragraph (i) of
17 this section;

(A) A

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

(B)

21 (E) a statement concerning whether a portion of the sales taxes col-
22 lected pursuant to K.S.A. 12-187, and amendments thereto, is committed
23 to other uses and unavailable as revenue for the redevelopment project.
24 If a portion of sales taxes is so committed, the applicant shall describe the
25 following:

(C)

26 (i) the percentage of sales taxes collected that are so committed; and
27 (ii) the date or dates on which this diverted revenue can be pledged
28 for repayment of special obligation bonds;

(D)

29 (F) an anticipated principal and interest payment schedule on the
30 bonds;

(E)

31 (G) a copy of the minutes of the governing body meeting or meetings
32 of any city whose bonding authority will be utilized in the project, evi-
33 dencing that a redevelopment plan has been created, discussed, and
34 adopted by the city in a regularly scheduled open public meeting.

(3)

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

- 37 (A) Visitation expectations;
- 38 (B) economic impact;
- 39 (C) the unique quality of the project;
- 40 (D) the ability of the project to gain sufficient market share to;
- 41 (i) remain profitable past the term of repayment; and
- 42 (ii) maintain status as a significant factor for travel decisions;
- 43 (E) integration and collaboration with other resources or businesses;

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

3 (G) project accountability, measured according to best industry
4 practices.

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

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

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

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

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

28 (q) "Redevelopment project costs" means those costs necessary to
29 implement a redevelopment project plan or a bioscience development
30 project plan, including, but not limited to costs incurred for:

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

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

*
for persons dispossessed of ownership of real property pursuant to K.S.A. 12-1773, and amendments thereto

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

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

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

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

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

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

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

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

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

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

In addition, a redevelopment project financed with bonds repayable as provided in subsection (a)(1)(G) of K.S.A. 12-1774, 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;

and

- (5) lobbying costs.

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1 district.

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

3 (1) at least a \$50,000,000 capital investment and \$50,000,000 in pro-

4 jected gross annual sales revenues; or

5 (2) for areas outside of metropolitan statistical areas, as defined by

6 the federal office of management and budget, the secretary finds:

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

8 (B) would be of regional or statewide importance, ~~but a~~.

9 A "special bond project" shall not include a project for a gambling

10 casino.

11 (aa) "Marketing study" means a study conducted to examine the im-

12 pact of the redevelopment project or special bond project upon similar

13 businesses in the projected market area.

14 (bb) "Projected market area" means any area within the state in

15 which the redevelopment project or special bond project is projected to

16 have a substantial fiscal or market impact upon businesses in such area.

17 (cc) "River walk canal facilities" means a canal and related water fea-

18 tures located adjacent to a river which flows through a major commercial

19 entertainment and tourism area and facilities related or contiguous

20 thereto, including, but not limited to pedestrian walkways and prome-

21 nades, landscaping and parking facilities.

22 (dd) "Commence work" means the manifest commencement of ac-

23 tual operations on the development site, such as, erecting a building,

24 excavating the ground to lay a foundation or a basement or work of like

25 description which a person with reasonable diligence can see and rec-

26 ognize as being done with the intention and purpose to continue work

27 until the project is completed.

28 (ee) "Major commercial entertainment and tourism area" may in-

29 clude, but not be limited to, a major multi-sport athletic complex.

30 (ff) "Major multi-sport athletic complex" means an athletic complex

31 that is utilized for the training of athletes, the practice of athletic teams,

32 the playing of athletic games or the hosting of events. Such project may

33 include playing fields, parking lots and other developments.

34 (gg) "Bioscience" means the use of compositions, methods and or-

35 ganisms in cellular and molecular research, development and manufac-

36 turing processes for such diverse areas as pharmaceuticals, medical ther-

37 apeutics, medical diagnostics, medical devices, medical instruments,

38 biochemistry, microbiology, veterinary medicine, plant biology, agricul-

39 ture, industrial environmental and homeland security applications of bi-

40 oscience and future developments in the biosciences. Bioscience includes

41 biotechnology and life sciences.

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

43 (1) Is or shall be owned, operated, or leased by, or otherwise under

- 1 the control of the Kansas bioscience authority;
- 2 (2) is or shall be used and maintained by a bioscience company; or
- 3 (3) includes a bioscience facility.
- 4 (ii) "Bioscience development district" means the specific area, cre-
- 5 ated under K.S.A. 12-1771, and amendments thereto, where one or more
- 6 bioscience development projects may be undertaken.
- 7 (jj) "Bioscience development project" means an approved project to
- 8 implement a project plan in a bioscience development district.
- 9 (kk) "Bioscience development project plan" ~~or "project plan"~~ means
- 10 the plan adopted by the authority for a bioscience development project
- 11 pursuant to K.S.A. 12-1772, and amendments thereto, in a bioscience
- 12 development district.
- 13 (ll) "Bioscience facility" means real property and all improvements
- 14 thereof used to conduct bioscience research, including, without limita-
- 15 tion, laboratory space, incubator space, office space and any and all fa-
- 16 cilities directly related and necessary to the operation of a bioscience
- 17 facility.
- 18 (mm) "Bioscience project area" ~~or "project area"~~ means an area des-
- 19 ignated by the authority within a bioscience development district.
- 20 (nn) "Biotechnology" means those fields focusing on technological
- 21 developments in such area as molecular biology, genetic engineering,
- 22 genomics, proteomics, physiomics, nanotechnology, biodefense, biocom-
- 23 puting, bioinformatics and future developments associated with
- 24 biotechnology.
- 25 (oo) "Board" means the board of directors of the Kansas bioscience
- 26 authority.
- 27 (pp) "Life sciences" means the areas of medical sciences, pharma-
- 28 ceutical sciences, biological sciences, zoology, botany, horticulture, ecol-
- 29 ogy, toxicology, organic chemistry, physical chemistry, physiology and any
- 30 future advances associated with life sciences.
- 31 (qq) "Revenue increase" means that amount of real property taxes
- 32 collected from real property located within the bioscience development
- 33 district that is in excess of the amount of real property taxes which is
- 34 collected from the base year assessed valuation.
- 35 (rr) "Taxpayer" means a person, corporation, limited liability com-
- 36 pany, S corporation, partnership, registered limited liability partnership,
- 37 foundation, association, nonprofit entity, sole proprietorship, business
- 38 trust, group or other entity that is subject to the Kansas income tax act,
- 39 K.S.A. 79-3201 *et seq.*, and amendments thereto.
- 40 (ss) "~~Flood plain~~ Floodplain increment" means the increment deter-
- 41 mined pursuant to subsection (b) of K.S.A. 2004 Supp. 12-1771e, and
- 42 amendments thereto.
- 43 (tt) "100-year ~~flood plain~~ floodplain area" means an area of land ex-

1 isting in a 100-year ~~flood plain~~ floodplain as determined by either an
2 engineering study of a Kansas certified engineer or by the United States
3 federal emergency management agency.

4 Sec. 2. K.S.A. 2004 Supp. 12-1771 is hereby amended to read as
5 follows: 12-1771. (a) *Resolution procedure for a redevelopment district or*
6 *bioscience development district.* ~~Any city proposing~~ When a city pro-
7 poses to establish a redevelopment district or when the Kansas bioscience
8 authority proposes to establish a bioscience development district within
9 an eligible area, the city shall adopt a resolution stating that the city is
10 considering the establishment of a redevelopment district or when the
11 Kansas bioscience authority proposes to establish a bioscience develop-
12 ment district. Such resolution shall:

or the Kansas bioscience authority

13 (1) Give notice that a public hearing will be held to consider the
14 establishment of a redevelopment district or bioscience development dis-
15 trict and fix the date, hour and place of such public hearing;

16 (2) describe the proposed boundaries of the redevelopment district
17 or bioscience development district;

18 (3) describe the district plan;

19 (4) state that a description and map of the proposed redevelopment
20 district or bioscience development district are available for inspection at
21 a time and place designated;

22 (5) state that the governing body will consider findings necessary for
23 the establishment of a redevelopment district or bioscience development
24 district.

25 Notice shall be given as provided in subsection (b) of K.S.A. 12-1772,
26 and amendments thereto.

27 (b) *Posthearing procedure.* Upon the conclusion of the public hear-
28 ing, the governing body may pass an ordinance. (1) An ordinance for a
29 redevelopment district shall: (A) Make findings that the redevelopment
30 district proposed to be developed is an eligible area; and the conservation,
31 development or redevelopment of such area is necessary to promote the
32 general and economic welfare of the city; (B) contain the district plan as
33 approved; and (C) contain the legal description of the redevelopment
34 district and may establish the redevelopment district. Such ordinance
35 shall contain a district plan that identifies all of the proposed redevel-
36 opment project areas and identifies in a general manner all of the buildings
37 and facilities that are proposed to be constructed or improved in each
38 redevelopment project area. The boundaries of such district shall not
39 include any area not designated in the notice required by subsection (a).

40 (2) An ordinance for a bioscience development district shall make
41 findings that the area satisfies the definition of a bioscience area and the
42 creation of a bioscience district will contribute to the development of
43 bioscience in the state and promote the general and economic welfare of

1 the city. Such ordinance shall also contain the district plan as approved
2 and contain the legal description of the bioscience development district.
3 Such ordinance shall contain a development district plan that identifies
4 all of the proposed bioscience development project areas and identifies
5 in a general manner all of the buildings and facilities that are proposed
6 to be constructed or improved in each bioscience development project
7 area. The boundaries of such district shall not include any area not des-
8 ignated in the notice required by subsection (a). No bioscience devel-
9 opment district shall be established without the approval of the bioscience
10 authority. In creating a bioscience development district, eminent domain
11 shall not be used to acquire agricultural land.

12 (c) The governing body of a city may establish a redevelopment dis-
13 trict within that city, and, with the bioscience authority's approval, may
14 establish a bioscience development district within that city. Such city may
15 establish a district inclusive of land outside the boundaries of the city or
16 wholly outside the boundaries of such city upon written consent of the
17 board of county commissioners. Prior to providing written consent, the
18 board of county commissioners shall be subject to the same procedure
19 for public notice and hearing as is required of a city pursuant to subsection
20 (a) for the establishment of a redevelopment district or bioscience de-
21 velopment district. One or more redevelopment projects or bioscience
22 development projects may be undertaken by a city within a redevel-
23 opment district or bioscience development district after such redevel-
24 opment district or bioscience development district has been established in
25 the manner provided by this section.

26 (d) No privately owned property subject to ad valorem taxes shall be
27 acquired and redeveloped under the provisions of K.S.A. 12-1770 et seq.,
28 and amendments thereto, if the board of county commissioners or the
29 board of education levying taxes on such property determines by reso-
30 lution adopted within 30 days following the conclusion of the hearing for
31 the establishment of the redevelopment district or bioscience develop-
32 ment district required by subsection (b) that the proposed redevelopment
33 district or bioscience development district will have an adverse effect on
34 such county or school district. The board of county commissioners or
35 board of education shall deliver a copy of such resolution to the city. The
36 city shall within 30 days of receipt of such resolution pass an ordinance
37 terminating the redevelopment district or bioscience development
38 district.

39 (e) *Addition to area; substantial change.* Any addition of area to the
40 redevelopment district or bioscience development district or any sub-
41 stantial change as defined in K.S.A. 12-1770a, and amendments thereto,
42 to the district plan shall be subject to the same procedure for public notice
43 and hearing as is required for the establishment of the district.

1 (f) Any addition of any area to the redevelopment district or biosci-
2 ence development district shall be subject to the same procedure for
3 public notice and hearing as is required for the establishment of the re-
4 development district or bioscience development district. The base year
5 assessed valuation of the redevelopment district or bioscience develop-
6 ment district following the addition of area shall be revised to reflect the
7 base year assessed valuation of the original area and the added area as of
8 the date of the original establishment of the redevelopment district or
9 bioscience development district.

10 (g) A city may remove real property from a redevelopment district or
11 bioscience development district by an ordinance of the governing body.
12 If more than a de minimus amount of real property is removed from a
13 redevelopment district or bioscience development district, the base year
14 assessed valuation of the redevelopment district or bioscience develop-
15 ment district shall be revised to reflect the base year assessed valuation
16 of the remaining real property as of the date of the original establishment
17 of the redevelopment district or bioscience development district.

18 (h) A city may divide the real property in a redevelopment district or
19 bioscience development district, including real property in different re-
20 development district or bioscience development project areas within a
21 redevelopment district or bioscience development district, into separate
22 redevelopment districts or bioscience development districts. The base
23 year assessed valuation of each resulting redevelopment district or bio-
24 science development district following such division of real property shall
25 be revised to reflect the base year assessed valuation of the area of each
26 resulting redevelopment district or bioscience development district as of
27 the date of the original establishment of the redevelopment district or
28 bioscience development district. Any division of real property within a
29 redevelopment district or bioscience development district into more than
30 one redevelopment district or bioscience development district shall be
31 subject to the same procedure of public notice and hearing as is required
32 for the establishment of the redevelopment district or bioscience devel-
33 opment district.

34 (i) If a city has undertaken a redevelopment project or bioscience
35 development project within a redevelopment district or bioscience de-
36 velopment district, and either the city wishes to subsequently remove
37 more than a de minimus amount of real property from the redevelopment
38 district or bioscience development district or the city wishes to subse-
39 quently divide the real property in the redevelopment district or biosci-
40 ence development district into more than one redevelopment district or
41 bioscience development district, then prior to any such removal or divi-
42 sion the city must provide a feasibility study which shows that the tax
43 increment revenue from the resulting redevelopment district or biosci-

1 ence development district within which the redevelopment district or
2 bioscience development project is located is expected to be sufficient to
3 pay the redevelopment project costs or bioscience development project
4 costs.

5 (j) Removal of real property from one redevelopment district or bi-
6 oscience development district and addition of all or a portion of that real
7 property to another redevelopment district or bioscience development
8 district may be accomplished by the adoption of an ordinance and in such
9 event the determination of the existence or nonexistence of an adverse
10 effect on the county or school district under subsection (d) shall apply to
11 both such removal and such addition of real property to a redevelopment
12 district or bioscience development district.

13 (k) Any addition to, removal from or division of real property or a
14 substantial change as defined in K.S.A. 12-1770a, and amendments
15 thereto, to a bioscience development district may be made only with the
16 approval of the bioscience authority.

17 (l) A bioscience development district may be established in the un-
18 incorporated area of a county by resolution of the board of county com-
19 missioners governing the area if:

20 (1) The Kansas bioscience authority has proposed to establish a bio-
21 science development district there; and

22 (2) the board of county commissioners follows the notice, hearing and
23 approval procedures required of a city to establish a bioscience devel-
24 opment district.

25 (m) When establishing a bioscience development district as described
26 in subsection (1), any references to "city" contained in this section shall
27 mean "county".

28 Sec. 3. K.S.A. 2004 Supp. 12-1771b is hereby amended to read as
29 follows: 12-1771b. (a) The boundaries of any redevelopment district in a
30 major tourism area including an auto race track facility located in Wy-
31 andotte county, shall, without regard to that portion of the district per-
32 taining to the auto race track facility, be as follows: Beginning at the
33 intersection of Interstate 70 and Interstate 435; West along Interstate 70
34 to 118th Street; North along 118th Street to State Avenue; Northeasterly
35 along proposed relocated State Avenue to 110th Street; North along
36 110th Street to Parallel Parkway; East along Parallel Parkway to Interstate
37 435; South along Interstate 435 to Interstate 70.

38 (b) Any major tourism area may include an additional area not ex-
39 ceeding 400 acres of additional property, excluding roads and highways,
40 in addition to the property necessary for the auto race track facility upon
41 a finding by the governor that the development plan and each project
42 within such additional area will enhance the major tourism area. For the
43 development of each project within such additional area the city shall

and any references to "ordinance" shall mean "resolution"

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1 select qualified developers pursuant to a request for proposals in accord-
 2 ance with written official procedures approved by the governing body of
 3 the city. Any project within such additional area that is financed in whole
 4 or in part by special obligation bonds payable from revenues derived from
 5 subsection (a)(1)(D) or (a)(1)(G) of K.S.A. 12-1774, and amendments
 6 thereto, shall not be entitled to any real property tax abatements or the
 7 revenues described in K.S.A. 12-1775, and amendments thereto. Any pro-
 8 ject within such additional area must be approved by the governor and
 9 construction must be commenced by July 1, 2002. Any business located
 10 in Kansas within 50 miles of a major tourism area that relocates into a
 11 major tourism area shall not receive any of the benefits of K.S.A. 12-1770
 12 et seq., and amendments thereto.

13 (c) If a city determines that revenues from sources other than prop-
 14 erty taxes will be sufficient to pay any special obligation bonds issued to
 15 finance a redevelopment project for an auto race track facility as de-
 16 scribed in subsection (a) of K.S.A. 12-1770a, and amendments thereto,
 17 and the secretary of commerce makes a finding that such project will
 18 create a major tourism area pursuant to subsection (n) of K.S.A. 12-1770a,
 19 and amendments thereto, all real and personal property, constituting an
 20 auto race track facility described in subsection (a) of K.S.A. 12-1770a, and
 21 amendments thereto, in such redevelopment district shall be exempt
 22 from property taxation for a period ending on the earlier of (1) the date
 23 which is 30 years after the date of the finding by the secretary of com-
 24 merce with respect to such major tourism area; or (2) the date on which
 25 no such special obligation bonds issued to finance such auto race track
 26 facility in a major tourism area remain outstanding.

27 (d) The city which is authorized to issue bonds pursuant to the pro-
 28 visions of K.S.A. 12-1770 et seq. in order to finance a redevelopment
 29 project in a major tourism area as defined by K.S.A. 12-1770a, and
 30 amendments thereto, shall obtain underwriting services required by the
 31 city for the issuance of such bonds pursuant to written proposals received
 32 in accordance with this section.

33 (e) Each city which is authorized to issue such bonds shall establish
 34 written official procedures for obtaining underwriting services required
 35 for the issuance of such bonds, including specifications for requests for
 36 proposals and criteria for evaluation of proposals on a competitive basis.
 37 The proposal evaluation criteria shall include factors based on cost, ca-
 38 pacity to provide the required services, qualifications and experience.

39 (f) Prior to the issuance of any such bonds to finance a redevelopment
 40 project in a major tourism area after the effective date of this act, the city
 41 shall publish notice of a request for proposals to provide the underwriting
 42 services that are required by the city with regard to the proposed bond
 43 issuance and shall mail requests for proposals to qualified interested par-

No more than \$310,000,000 in bonds may be issued for such project unless the project is approved as a special bond project.

1 ties upon request for such notice. The city shall award contracts for such
2 underwriting services from the proposals received in accordance with the
3 procedures and evaluation criteria adopted by the city for such purpose.
4 A city shall publish such notice in the official newspaper of the city.

5 (g) A redevelopment project in a major tourism area for an auto race
6 track facility, shall be completed within 30 years from the date the sec-
7 retary makes the finding that the redevelopment project will create a
8 major tourism area pursuant to subsection (n) of K.S.A. 12-1770a, and
9 amendments thereto.

10 (h) The maximum maturity on bonds issued to finance projects pur-
11 suant to this act shall not exceed 20 years except that: (1) Such maximum
12 period of special obligation bonds not payable from revenues described
13 by ~~subsection~~ *subsections (a)(1)(D) and (a)(1)(G)* of K.S.A. 12-1774, and
14 amendments thereto, issued to finance an auto race track facility shall not
15 exceed 30 years; and (2) such maximum period, if the governor deter-
16 mines and makes and submits a finding to the speaker of the house of
17 representatives and the president of the senate that a maturity greater
18 than 20 years, but in no event exceeding 30 years, is necessary for the
19 economic feasibility of the financing of an auto race track facility with
20 special obligation bonds payable primarily from revenues described by
21 ~~subsection~~ *subsections (a)(1)(D) and (a)(1)(G)* of K.S.A. 12-1774, and
22 amendments thereto, may be extended in accordance with such deter-
23 mination and finding.

24 Sec. 4. K.S.A. 2004 Supp. 12-1773 is hereby amended to read as
25 follows: 12-1773. (a) Any city which has adopted a project plan in ac-
26 cordance with the provisions of this act may purchase or otherwise acquire
27 real property in connection with such project plan. Upon a 2/3 vote of the
28 members of the governing body thereof a city may acquire by condem-
29 nation any interest in real property, including a fee simple title thereto,
30 which it deems necessary for or in connection with any project plan of
31 an area located within the redevelopment district. Prior to the exercise
32 of such eminent domain power, the city shall offer to the owner of any
33 property which will be subject to condemnation with respect to any re-
34 development project, other than one which includes an auto race track
35 facility or a special bond project, compensation in an amount equal to the
36 highest appraised valuation amount determined for property tax purposes
37 by the county appraiser for any of the three most recent years next pre-
38 ceeding the year of condemnation, except that, if in the year next preceding
39 the year of condemnation any such property had been damaged or de-
40 stroyed by fire, flood, tornado, lightning, explosion or other catastrophic
41 event, the amount offered should be equal to the appraised valuation of
42 the property which would have been determined taking into account such
43 damage or destruction unless such property has been restored, renovated

redevelopment

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1 or otherwise improved. However no city shall exercise such eminent do-
 2 main power to acquire real property in a conservation area. Any such city
 3 may exercise the power of eminent domain in the manner provided by
 4 K.S.A. 26-501 et seq., and amendments thereto. In addition to the com-
 5 pensation or damage amount finally awarded thereunder with respect to
 6 any property subject to proceedings thereunder as a result of the con-
 7 struction of an auto race track facility or a special bond project, such city
 8 shall provide for the payment of an amount equal to 25% of such com-
 9 pensation or damage amount. In addition to any compensation or dam-
 10 ages allowed under the eminent domain procedure act, such city shall
 11 also provide for the payment of relocation assistance as provided in K.S.A.
 12 12-1777, and amendments thereto.

13 (b) Any property acquired by a city under the provisions of this act
 14 may be sold, transferred or leased to a developer, in accordance with the
 15 project plan and under such other conditions as may be agreed upon.
 16 ~~Such city may use the proceeds of special obligation bonds issued under~~
 17 ~~K.S.A. 12-1774, and amendments thereto, or full faith and credit tax in-~~
 18 ~~crement bonds issued under K.S.A. 12-1774, and amendments thereto,~~
 19 ~~or any uncommitted funds derived from those sources set forth in para-~~
 20 ~~graph (1) of subsection (a) of K.S.A. 12-1774, and amendments thereto,~~
 21 ~~to pay the redevelopment project costs as defined in K.S.A. 12-1770a,~~
 22 ~~and amendments thereto, to implement the project plan.~~

redevelopment

23 Sec. 5. K.S.A. 2004 Supp. 12-1774 is hereby amended to read as
 24 follows: 12-1774. (a) (1) Any city shall have the power to issue special
 25 obligation bonds in one or more series to finance the undertaking of any
 26 redevelopment project in accordance with the provisions of this act. Such
 27 special obligation bonds shall be made payable, both as to principal and
 28 interest:

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

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

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

37 (D) from a pledge of all of the revenue received by the city from any
 38 transient guest, state and local sales and use taxes which are collected
 39 from taxpayers doing business within that portion of the city's redev-
 40 opment district established pursuant to K.S.A. 12-1771, and amendments
 41 thereto, occupied by a redevelopment project if there first is a finding by
 42 the secretary of commerce that based upon the feasibility study the re-
 43 development project will create a major tourism area for the state or if

1 the project is the restoration of a historic theater as defined in subsection
 2 (l) of K.S.A. 12-1770a, and amendments thereto, or the project has been
 3 designated as a special bond project as defined in subsection (z) of K.S.A.
 4 12-1770a, and amendments thereto, except that, with respect to a rede-
 5 velopment district established prior to January 1, 2003, for which, prior
 6 to January 1, 2003, the secretary of commerce made a finding as provided
 7 in this subsection that a redevelopment project would create a major
 8 tourism area for the state, such special obligation bonds shall be payable
 9 both as to principal and interest, from a pledge of all of the revenue from
 10 any transient guest, state and local sales and use taxes collected from
 11 taxpayers as provided in this subsection whether or not revenues from
 12 such taxes are received by the city. The proceeds of special obligation
 13 bonds issued pursuant to this paragraph after the effective date of this
 14 act, shall not be used to finance personal property as defined in K.S.A.
 15 79-102, and amendments thereto;

16 (E) (i) from a pledge of a portion or all increased revenue received
 17 by the city from franchise fees collected from utilities and other busi-
 18 nesses using public right-of-way within the redevelopment district; (ii)
 19 from a pledge of all of the revenue received by the city from sales taxes;

or a portion

20 (F) with the approval of the county, from a pledge of all of the rev-
 21 enues received by the county from any transient guest, local sales and use
 22 taxes which are collected from taxpayers doing business within that por-
 23 tion of the redevelopment district established pursuant to K.S.A. 12-1771,
 24 and amendments thereto; or

25 (G) from a pledge of all of the revenue received ~~by the city~~ from any
 26 state sales ~~and use~~ taxes which are collected from taxpayers doing business
 27 within that portion of the city's redevelopment district occupied by a
 28 redevelopment project if the secretary finds that, based upon the feasi-
 29 bility study, the redevelopment project will create a major tourism area
 30 for the state: is the restoration of a historic theater as defined in subsection
 31 (l) of K.S.A. 12-1770a, and amendments thereto; or has been designated
 32 a special bond project as defined in subsection (z) of K.S.A. 12-1770a, and
 33 amendments thereto. The proceeds of special obligation bonds issued pur-
 34 suant to this paragraph after the effective date of this act, shall not be
 35 used to finance personal property as defined in K.S.A. 79-102, and amend-
 36 ments thereto;

or pledged to bond repayment

37 ~~(G)(H)~~ by any combination of these methods except that for a project
 38 which has been designated as a special bond project as defined in sub-
 39 section (z) of K.S.A. 12-1770a and amendments thereto, 100% of city and
 40 county sales taxes shall be pledged for such project except for amounts
 41 committed to other use by election of voters prior to the effective date
 42 of this act;

approval of a project using bonds repayable under (a)(1)(D) or (a)(1)(G) of K.S.A. 12-1774, and amendments thereto

43 The city may pledge such revenue to the repayment of such special

1 obligation bonds prior to, simultaneously with, or subsequent to the is-
2 suance of such special obligation bonds.

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

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

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

37 (2) Except as provided in paragraph (3) of this subsection, before the
38 governing body of any city proposes to issue full faith and credit tax in-
39 crement bonds as authorized by this subsection, the feasibility study re-
40 quired by K.S.A. 12-1772, and amendments thereto, shall demonstrate
41 that the benefits derived from the project will exceed the cost and that
42 the income therefrom will be sufficient to pay the costs of the project.
43 No full faith and credit tax increment bonds shall be issued unless the

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Attachment 3-17

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

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

redevelopment

redevelopment

34 (4) During the progress of any redevelopment project in which the
 35 redevelopment project costs will be financed, in whole or in part, with
 36 the proceeds of full faith and credit tax increment bonds, the city may
 37 issue temporary notes in the manner provided in K.S.A. 10-123, and
 38 amendments thereto, to pay the redevelopment project costs for the pro-
 39 ject. Such temporary notes shall not be issued and the city shall not ac-
 40 quire property in the redevelopment project area until the requirements
 41 of paragraph (2) or (3) of this subsection, whichever is applicable, have
 42 been met.

43 (5) Full faith and credit tax increment bonds issued under this sub-

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3-18

1 section shall be general obligations of the city and are declared to be
2 negotiable instruments. They shall be issued in accordance with the gener-
3 al bond law. All such bonds and all income or interest therefrom shall
4 be exempt from all state taxes except inheritance taxes. The amount of
5 the full faith and credit tax increment bonds issued and outstanding which
6 exceeds 3% of the assessed valuation of the city shall be within the bonded
7 debt limit applicable to such city.

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

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

19 (d) For each project financed pursuant to from revenues under sub-
20 section (a)(1)(D) or (a)(1)(G), the city shall prepare and submit annually
21 to the governor, the secretary of commerce, Kansas, Inc. and the legis-
22 lature by October 1 of each year, a report describing the status of any
23 projects within such redevelopment area.

and any expenditures that may be requested

24 (e) A city may use the proceeds of special obligation bonds or full
25 faith and credit tax increment bonds, or any uncommitted funds derived
26 from sources set forth in this section to pay the redevelopment project
27 costs as defined in K.S.A. 12-1770a, and amendments thereto, to imple-
28 ment the project plan.

redevelopment

29 (f) With respect to a redevelopment district established prior to Jan-
30 uary 1, 2003, for which, prior to January 1, 2003, the secretary of com-
31 merce made a finding as provided in this subsection that a redevelopment
32 project would create a major tourism area for the state, such special ob-
33 ligation bonds shall be payable both as to principal and interest, from a
34 pledge of all of the revenue from any transient guest, state and local sales
35 and use taxes collected from taxpayers as provided in this subsection
36 whether or not revenues from such taxes are received by the city.

37 Sec. 6. K.S.A. 12-1774a is hereby amended to read as follows: 12-
38 1774a. In the event that the city shall default in the payment of any special
39 obligation bonds as payable from revenues authorized pursuant to sub-
40 section (a)(1)(D) or (a)(1)(G) of K.S.A. 12-1774, and amendments
41 thereto, no public funds shall be used to pay the holders thereof except
42 as otherwise specifically authorized in this act.

43 Sec. 7. K.S.A. 2004 Supp. 12-1780b is hereby amended to read as

1 follows: 12-1780b. (a) The governing body of a city may establish one or
2 more special bond projects in any area within such city or wholly outside
3 the boundaries of such city. A special bond project wholly outside the
4 boundaries of such city must be approved by the board of county com-
5 missioners through county resolution. The special bond projects shall be
6 eligible for financing by special obligation bonds payable from revenues
7 described by subsection (a)(1)(D) or (a)(1)(G) of K.S.A. 12-1774, and
8 amendments thereto. Each special bond project shall first be approved
9 by the secretary, if the secretary determines that the proposed project
10 sufficiently promotes, stimulates and develops the general and economic
11 welfare of the state as described in K.S.A. 12-1770. The secretary may
12 approve a special bond project located in a redevelopment district estab-
13 lished by a city prior to the effective date of this act. A special bond project
14 shall not be granted to any business that proposes to relocate its business
15 from another area of the state into such city, for the purpose of consid-
16 eration for a special bond project and shall not receive any of the benefits
17 provided by K.S.A. 12-1770 et seq., and amendments thereto. A special
18 bond project shall not be approved by the secretary if the marketing study
19 required by K.S.A. 2004 Supp. 12-1780c, and amendments thereto, in-
20 dicates a substantial negative impact upon businesses in the project mar-
21 ket area or the granting of such project would cause a default in the
22 payment of any outstanding special obligation bonds ~~as payable from rev-~~
23 ~~enues~~ authorized pursuant to subsection (a)(1)(D) or (a)(1)(G) of K.S.A.
24 12-1774, and amendments thereto.

25 (b) The maximum maturity of special obligation bonds payable pri-
26 marily from revenues described by subsection (a)(1)(D) or (a)(1)(G) of
27 K.S.A. 12-1774, and amendments thereto, to finance special bond pro-
28 jects pursuant to this section shall not exceed 20 years.

29 (c) A city that owns a building or structure that was financed in whole
30 or in part by special obligation bonds payable from revenues described
31 in subsection (a)(1)(D) or (a)(1)(G) of K.S.A. 12-1774, and amendments
32 thereto, may engage a manager to manage such building or structure.
33 The contractual relationship between the city and the manager of such
34 building or structure shall not be deemed a lease to a developer for pur-
35 poses of paragraph (15) of subsection (q) of K.S.A. 12-1770a, and amend-
36 ments thereto.

37 Sec. 5. K.S.A. 2004 Supp. 12-1780c is hereby amended to read as
38 follows: 12-1780c. (a) Any city proposing to undertake a special bond
39 project established pursuant to K.S.A. 2004 Supp. 12-1780b, and amend-
40 ments thereto, shall prepare a project plan in consultation with the plan-
41 ning commission of the city. Such project plan shall also be prepared in
42 consultation with the planning commission of the county, if any, if a spe-
43 cial bond project is located wholly outside the boundaries of the city. The

1 project plan shall include:

2 (1) A summary of the feasibility study done as defined in K.S.A. 12-
3 1770a, and amendments thereto, which will be an open record;

4 (2) a summary of the marketing study done as defined in K.S.A. 12-
5 1770a, and amendments thereto, which will be an open record;

6 (3) a reference to the district plan established under K.S.A. 12-1771,
7 and amendments thereto, that identifies the project area that is set forth
8 in the project plan that is being considered;

9 (4) a description and map of the location of the facility that is the
10 subject of the special bond project;

11 (5) the relocation assistance plan required by K.S.A. 12-1777, and
12 amendments thereto;

13 (6) a detailed description of the buildings and facilities proposed to
14 be constructed or improved; and

15 (7) any other information the governing body deems necessary to
16 advise the public of the intent of the special bond project plan.

17 (b) *Resolution requirements.* A copy of the project plan shall be de-
18 livered to the board of county commissioners of the county and the board
19 of education of any school district levying taxes on property subject to the
20 special bond project. Upon a finding by the planning commission of the
21 city that the project plan is consistent with the intent of the comprehen-
22 sive plan for the development of the city, and a finding by the planning
23 commission of the county, if any, with respect to a special bond project
24 located wholly outside the boundaries of the city, that the project plan is
25 consistent with the intent of the comprehensive plan for the development
26 of the county, the governing body of the city shall adopt a resolution
27 stating that the city is considering the adoption of the project plan. Such
28 resolution shall:

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

32 (2) describe the boundaries of the area subject to the special bond
33 project; and

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

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

42 (2) A copy of the resolution providing for the public hearing shall be
43 by certified mail, return receipt requested sent to the board of county

1 commissioners of the county and the board of education of any school
2 district levying taxes on property subject to the special bond project. The
3 resolution shall be published once in the official city newspaper not less
4 than one week nor more than two weeks preceding the date fixed for the
5 public hearing. A description in sufficient detail to advise the reader of
6 the particular proposed special bond project shall be published with the
7 resolution.

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

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

16 (e) *Posthearing procedure.* Following the public hearing, the govern-
17 ing body may adopt the project plan by ordinance passed upon a 2/3 vote.

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

22 (g) Any project shall be completed within 20 years from the date of
23 the approval of the project plan. Kansas resident employees shall be given
24 priority consideration for employment in construction projects located in
25 a special bond project area.

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

34 (i) *The secretary of revenue shall determine when the amount of sales*
35 *tax and other revenues that have been collected and distributed to the*
36 *bond debt service or reserve fund is sufficient to satisfy all principal and*
37 *interest costs to the maturity date or dates, of any special obligation bonds*
38 *issued by a city to finance a special bond project. Thereafter, all sales tax*
39 *and other revenues shall be collected and distributed in accordance with*
40 *applicable law.*

41 (j) The provisions of this act regarding special bond projects shall
42 expire on and after July 1, 2007.

43 Sec. 9. K.S.A. 12-1774a and K.S.A. 2004 Supp. 12-1770a, 12-1771,

Insert K.S.A. 2004 Supp. 12-1772 as Sec. 9, 12-1777 as Sec. 10 and New Sec.
11 and 12 here. Renumber remaining sections.

and 12-1777

1 ~~12-1771b, 12-1773, 12-1774, 12-1780b and 12-1780c are hereby repealed.~~
2 Sec. 10. This act shall take effect and be in force from and after its
3 publication in the statute book.

12-1772,

Senate Commerce Committee
3-22-05

Attachment *3-22*

New Sec. 11. For projects involving the use of financing pursuant to K.S.A. 12-1774(a)(1)(G), the secretary shall set a limit on the total amount of such special obligation bonds that may be issued for a redevelopment project. An issue of special obligation bonds must bear interest at a reasonable rate as of the time of sale of the bonds, taking into account such factors as current market conditions, the nature and degree of risk associated with repayment of the bonds and other relevant factors.

New Sec. 12. Redevelopment projects using financing pursuant to K.S.A. 12-1774(a)(1)(G), and amendments thereto, shall be audited by the division of post audit at least once at the direction of the legislative post audit committee. If the legislative post audit committee specifies under such statute that a firm, as defined by K.S.A. 46-1112, and amendments thereto, is to perform all or part of such audit work, such firm shall be selected and shall perform such audit work as provided in K.S.A. 46-1123, and amendments thereto, and K.S.A. 46-1125 through 46-1127, and amendments thereto. The post auditor shall compute the reasonably anticipated cost of providing audits pursuant to this subsection, subject to review and approval by the contract audit committee established by K.S.A. 46-1120, and amendments thereto. Upon such approval, the city shall reimburse the division of post audit for the amount approved by the contract audit committee.

- (b) Such audit shall determine whether bond financing obtained pursuant to K.S.A. 12-1774(a)(1)(G) is being used only for the authorized purposes. Audit results shall be reported to the house economic development committee, the senate commerce committee, the governor and the secretary of commerce during the legislative session immediately following the audit.
- (c) If audit findings indicate that bond funds have been used for unauthorized or ineligible purposes, the city shall repay to the bond fund all such unauthorized or ineligible expenditures. Such city shall enter into a repayment agreement with the secretary of revenue specifying the terms of such repayment obligation.

Helen Pedigo - RE: 2012 amendments x

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I just got off the phone with Dotty Riley, who caught a few more things that should be included in the balloon bill if possible. These relate to 12-1770a(k) on page 3. Helen, I simply missed these when you suggested the formatting cleanup to dividing out the feasibility study requirements for all of the TIF deals and those just for STAR Bonds. The balloon that Lenexa and Overland Park had worked on, which Eric had presented on Tuesday, did have a few additional cleanup comments which got lost when we changed the format, but which we think are appropriate for your consideration.

First, there's a problem with saying that the feasibility study has to include the minutes of the meeting approving the redevelopment plan. The statute requires, both for regular TIF projects(12-1772(a)(1) and 12-1772(b)(4)) and for special bond projects (12-1780c(a)(1)), that a summary of the feasibility study be included in the redevelopment plan which has to be presented to and approved by the city's planning and zoning commission, before the redevelopment plan is then presented to the city council for approval. In other words, the feasibility study, or at least a summary of the feasibility study, is created before the approval of the plan, so it's hard to see how it could include the minutes of the approval. We know it is important to the Committee that the official approval be documented. Therefore, rather than delete this, I'm suggesting that we add language to what is now item E in the balloon bill to say that following approval of the project plan, the feasibility study will be supplemented to include the approval. That way, the submission to the Secretary of Commerce will necessarily include the approval, even if the initial summary of the feasibility study can't include the approval because it hasn't occurred yet.

Second, we had suggested that the references to "sales taxes" which might be committed to another use be clarified to be references to "local sales and use taxes", and that this requirement be expanded to cover not only the taxes imposed in 12-187, but any local sales and use taxes pledged to another use. That way, all such taxes have to be identified in the feasibility study. We thought the word "pledged" was more appropriate than "committed".

I attach our markup of page 3. Please ignore the change of number

Finally Dotty reminded me of the testimony that she would have given the Committee relating to a general catch-all safe harbor protection for any STAR bonds which have been issued following approval by the Secretary, against challenges to the adequacy of a feasibility study; this didn't get brought up in the staff session on Tuesday after the committee hearing. I attach that testimony as well, for consideration for inclusion in the balloon.

Dotty and I will both be at the Committee hearing this afternoon.

Kathy Peters

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Senate Commerce Committee

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Attachment 3-24

Burroughs, Huntington
P

Senate Commerce Committee

Attachment B-25

Makes consistent w/ 12-1774

1 contaminated by the department of health and environment or the United
2 States environmental protection agency.

(1)

3 (k) "Feasibility study" means:

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

and;

(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:

10 (B) the effect, if any, the redevelopment project costs or, special bond
11 project or bioscience project will have on any outstanding special obliga-
12 tion bonds as authorized pursuant to subsection payable from the reve-
13 nues described in subsections (a)(1)(D) and (a)(1)(G) of K.S.A. 12-1774,
14 and amendments thereto:

(A) A

15 ~~[(C)]~~ a description of any project submitted under K.S.A. 12-1771d,
16 and amendments thereto, to satisfy the requirements of paragraph (i) of
17 this section;

(B)

18 ~~[(D)]~~ a statement of how the jobs and taxes obtained from the project
19 will contribute significantly to the economic development of the state and
20 region;

(C)

21 ~~[(E)]~~ a statement concerning whether a portion of the sales taxes col-
22 lected pursuant to K.S.A. 12-101, and amendments thereto, is committed
23 to other uses and unavailable as revenue for the redevelopment project.
24 If a portion of sales taxes is so committed, the applicant shall describe the
25 following:

is pledged

the local sales and use taxes pledged
to other uses

26 (i) the percentage of sales taxes collected that are so committed and
27 (ii) the date or dates on which ~~this diverted revenue~~ can be pledged
28 for repayment of special obligation bonds;

(D)

29 ~~[(F)]~~ an anticipated principal and interest payment schedule on the
30 bonds;

(E)

31 ~~[(G)]~~ a copy of the minutes of the governing body meeting or meetings
32 of any city whose bonding authority will be utilized in the project, evi-
33 dencing that a redevelopment plan has been created, discussed and
34 adopted by the city in a regularly scheduled open public meeting.

Following approval of the redevelopment
plan, the feasibility study will
be supplemented to include

35 ~~[(H)]~~ For a proposed major commercial entertainment and tourism
36 area, the feasibility study must also include:

- 37 (A) Visitation expectations;
- 38 (B) economic impact;
- 39 (C) the unique quality of the project;
- 40 (D) the ability of the project to gain sufficient market share to;
- 41 (i) remain profitable past the term of repayment; and
- 42 (ii) maintain status as a significant factor for travel decisions;
- 43 (E) integration and collaboration with other resources or businesses;

Helen Pedigo - RE: 2012 amendments x

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Subject: RE: 2012 amendments x
CC: Kathie Sparks <KathieS@klrd.state.ks.us>, Susan Kannarr <Susank@klrd.state.ks.us>, Renae Jefferies <RenaeJ@rs.state.ks.us>

Thanks, Helen, this looks good. I saw just a couple of things you may want to consider in the balloons, one grammar, one to more fully address a point that I think the Committee was asking about.

On page 5, the balloon in line 16, first line, add the word "for" after "In addition,"

On page 18, the balloon in line 18, my sense was that the Committee wanted to know how the Bond proceeds were being spent, and I'm not sure that the phrase "any expenditure that may be requested" really gets us there. Mind you, I heard you say this Tuesday afternoon and thought it sounded fine then, but seeing it in print, I think we need more. It seems to me that what needs to be reported is how the money has been spent in the last year, as well as known and projected expenditures to come. I don't think the phrase "may be requested" is broad enough, and also, it raises the questions: requested by who? the developer? what if the city didn't approve the request? Instead of the language in the balloon, I'd suggest something along the order of: "any expenditures of the proceeds of special obligation bonds that have occurred since the last annual report and any expenditures of the proceeds of such bonds expected to occur in the future." Feel free to tweak the language, I was just trying to capture both past and forward looking costs.

Thanks, Kathy Peters

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Senate Commerce Committee

3-22-05

Attachment 326

*minutes of Committee
 Winn, O'Malley
 P*

Amendment

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TESTIMONY

to

*Motion
Rott, Carlin*

HOUSE ECONOMIC DEVELOPMENT COMMITTEE

**Dorothea K. Riley, Bond Counsel
to the City of Lenexa, Kansas
March 15, 2005**

HOUSE BILL NO. 2012

Honorable Chairperson Gordon and Committee Members:

On behalf of the City of Lenexa, Kansas, Kutak Rock LLP, as the City's Bond Counsel is submitting this testimony with regard to House Bill 2012.

We recommend an addition to the definition of feasibility study included in Section 1 of the Bill and appearing in K.S.A. 12-1770a(k)(2)(3) which reads as follows: "(3) The failure to include all information enumerated in K.S.A. 12-1770a(k) in the feasibility study for a redevelopment, special bond or bioscience project shall not effect the validity of bonds issued pursuant to this act."

This addition is intended to give participants in a tax increment financing, including the bondowners, assurance that the feasibility study cannot be challenged as inadequate after bonds have been issued. Absent this addition, we are concerned that the subjective nature of items required to be included in the feasibility study can create opportunities for challenges to the compliance by the issuing city of required statutory procedures after bonds have been issued. This uncertainty may create difficulties in marketing bonds or may increase the interest rate on bonds.

For further comment or questions, do not hesitate to contact me:

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Sec. ~~1~~. K.S.A. 2004 Supp. 12-1772 is hereby amended to read as follows: 12-1772. (a) Redevelopment projects. One or more redevelopment projects or bioscience development projects may be undertaken by a city within an established redevelopment district or bioscience development district. Any such project plan may be implemented in separate development stages. Any city proposing to undertake a redevelopment project or bioscience development project within a redevelopment district or bioscience development district established pursuant to K.S.A. 12-1771, and amendments thereto, shall prepare a project plan in consultation with the planning commission of the city and, in the case of a bioscience development district, with the approval of the bioscience authority. The project plan shall include:

- (1) A summary of the feasibility study done as defined in K.S.A. 12-1770a, and amendments thereto, which will be an open record;
- (2) a reference to the district plan established under K.S.A. 12-1771, and amendments thereto, that identifies the redevelopment or bioscience development project area that is set forth in the project plan that is being considered;
- (3) a description and map of the redevelopment or bioscience development project area to be redeveloped;
- (4) the relocation assistance plan required by K.S.A. 12-1777, and amendments thereto;
- (5) a detailed description of the buildings and facilities proposed to be constructed or improved in such area; and
- (6) any other information the governing body deems necessary to advise the public of the intent of the project plan.

(b) Resolution requirements. A copy of the redevelopment project plan or bioscience

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development project plan shall be delivered to the board of county commissioners of the county and the board of education of any school district levying taxes on property within the proposed redevelopment project area or bioscience development project area. Upon a finding by the planning commission that the project plan is consistent with the intent of the comprehensive plan for the development of the city, the governing body of the city shall adopt a resolution stating that the city is considering the adoption of the project plan. Such resolution shall:

(1) Give notice that a public hearing will be held to consider the adoption of the redevelopment project plan or bioscience development project plan and fix the date, hour and place of such public hearing;

(2) describe the boundaries of the redevelopment district or bioscience development district within which the redevelopment or bioscience development project will be located and the date of establishment of such district;

(3) describe the boundaries of the area proposed to be included within the redevelopment project area or bioscience development project area; and

(4) state that the project plan, including a summary of the feasibility study, relocation assistance plan and financial guarantees of the prospective developer and a description and map of the area to be redeveloped or developed are available for inspection during regular office hours in the office of the city clerk.

Except as provided in paragraph (3) of subsection (b) of K.S.A. 12-1774, and amendments thereto, if the governing body determines that it may issue full faith and credit tax increment bonds to finance the redevelopment project or bioscience development

project, in whole or in part, the resolution also shall include notice thereof.

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

(2) A copy of the resolution providing for the public hearing shall be by certified mail, return receipt requested sent to the board of county commissioners of the county, ~~the Kansas development finance authority~~ and the board of education of any school district levying taxes on property within the proposed redevelopment project area or bioscience development district project area. Copies also shall be sent by certified mail, return receipt requested to each owner and occupant of land within the proposed redevelopment project area or bioscience development project area not more than 10 days following the date of the adoption of the resolution. The resolution shall be published once in the official city newspaper not less than one week nor more than two weeks preceding the date fixed for the public hearing. A sketch clearly delineating the area in sufficient detail to advise the reader of the particular land proposed to be included within the project area shall be published with the resolution.

(3) At the public hearing, a representative of the city shall present the city's proposed project plan. If the hearing is for a proposed bioscience development project, a representative of the Kansas bioscience authority shall assist in presenting the proposed bioscience project plan. Following the presentation of the project plan, all interested persons shall be given an opportunity to be heard. The governing body for good cause shown may recess such hearing to a

[If the project is a bioscience development project, a copy of the resolution providing for the public hearing shall also be sent by certified mail, return receipt requested, to the Kansas development finance authority.]

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time and date certain, which shall be fixed in the presence of persons in attendance at the hearing.

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

(e) Posthearing procedure. Following the public hearing, the governing body may adopt the project plan by ordinance passed upon a 2/3 vote and, in the case of a bioscience project plan, with the approval of the bioscience authority.

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

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

(h) A bioscience development project may be undertaken in a bioscience development district in the unincorporated area of a county by resolution of the board of county commissioners governing the area if:

(1) The bioscience development project is approved by the Kansas bioscience authority; and

(2) the board of county commissioners follows the notice, hearing and approval procedures required of a city to establish a bioscience development project.

(i) When establishing a bioscience development project as described in subsection (h), any references to "city" contained in this section shall mean "county".

Sec.10 . K.S.A. 12-1777 is hereby amended to read as follows:
12-1777. Before any redevelopment project shall be initiated under this act a relocation assistance plan shall be approved by the governing body proposing to undertake the project. Such relocation assistance plan shall:

(a) Provide for relocation payments to be made to persons, families and businesses who move from real property located in the redevelopment district or who move personal property from real property located in the redevelopment district as a result of the acquisition of the real property by the city in carrying out the provisions of this act. With respect to any redevelopment project other than one which includes an auto race track facility, such payments shall not be less than \$500;

(b) provide that no persons or families residing in the redevelopment district shall be displaced unless and until there is a suitable housing unit available and ready for occupancy by such displaced person or family at rents within their ability to pay. Such housing units shall be suitable to the needs of such displaced persons or families and must be a decent, safe, sanitary and otherwise standard dwelling; and

(c) provide for the payment of any damages sustained by a retailer, as defined by K.S.A. 79-3702, and amendments thereto, by reason of the liquidation of inventories necessitated by relocation from the redevelopment district.

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