

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Nick Jordan at 8:15 A.M. on February 15, 2007 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Amy Deckard, Kansas Legislative Research Department
Kathie Sparks, Kansas Legislative Research Department
Jackie Lunn, Committee Assistant

Conferees appearing before the committee:

Bob North, Department of Commerce
Mike Hutfles, Schlitterbuhn
Larry Baer, League of Kansas Municipalities
Bud Burk, City of Olathe
Michael Wilkes, City of Olathe
Carol Lehman, Mayor of City of Gardner
Dorthea Riley, City of Lenexa & Wichita & Gardner
Erik Sartorius, City of Overland Park
Mike Scanlon, City of Mission

Others attending:

See attached list.

SB 316--Codifying STAR bond financing separately from tax increment financing

Chairperson Jordan introduced Kathie Sparks, Legislative Research, to explain **SB 316**. Ms. Sparks stated the Joint Committee on Economic Development interim charge was to divide TIF and STAR Bonds into separate statutes. In the bill sections one (1) through twenty (20) are STAR Bonds and everything else is TIF. Ms. Sparks referred the Committee to a memo regarding the History of TIF and STAR Bonds. (Attachment 1)

Chairperson Jordan opened the hearing on **SB 316** and introduced Bob North, Department of Commerce to give his testimony as a proponent of **SB 316**. Mr. North presented written copy. (Attachment 2) Mr. North stated The Department of Commerce would like to offer the following amendments for **SB 316**.

- To allow counties to initiate STAR bond applications and projects.
- Clarification on the nature of the funding sources to be pledged to repay STAR bonds.
- To limit the amount of STAR bonds that can be utilized on any particular projects to no more than 50% of project costs.

In closing he stated these amendments would make STAR bonds more accessible and clarify issues regarding funding resources and legislative intent.

Questions and discussion followed.

Chairperson Jordan introduced Mike Hutfles representing Schlitterbuhn to give his testimony as a proponent of **SB 316**. Mr. Hutfles presented written testimony. (Attachment 3) Mr. Hutfles stated that Schlitterbuhn supported **SB 316** and would like to offer the following amendments.

- On page 4, they would like to strike "located adjacent to a river" from the "River walk canal facilities" definition.
- They would also like clarification on the New Section 18.

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:15 A.M. on February 15, 2007 in Room 123-S of the Capitol.

Questions followed.

Chairperson Jordan introduced Larry Baer representing the League of Kansas Municipalities to give his testimony as a proponent of **SB 316**. Mr. Baer presented written copy. (Attachment 4) Mr. Baer stated the League of Kansas Municipalities has long supported legislation to permit the use of both tax increment financing and STAR bonds on a statewide basis. The League believes that the division of the TIF and STAR bond procedures that is proposed in **SB 316** clarifies the procedures and should simplify their application.

Questions followed.

Chairperson Jordan introduced Michael Wilkes, City Manager, City of Olathe to give his testimony as a proponent of **SB 316**. Mr. Wilkes presented written copy. (Attachment 5) Mr. Wilkes stated they are in support of the bill and would like to request that the bill contain language to allow that STAR bond proceeds be used to finance any costs, including privately-owned buildings and structures, necessary for a project except for certain prohibited uses that are contained in current law so long as at least 50% of the project is not being financed with STAR bonds.

Questions followed.

Chairperson Jordan introduced Mayor Carol Lehman with the City of Gardner to give her testimony as a proponent of **SB 316**. Mayor Lehman presented written copy. (Attachment 6) Mayor Lehman stated a KC Logistics Hub site is adjacent to current city boundaries of Gardner and it makes good sense for the City of Gardner to have control over the planning and development of this area. The City of Gardner does not have the resources to fund the project. The area needs expensive public improvements, and in order for the City of Gardner to do what they need to do, they need a new mechanism to capture future tax dollars off the site. Therefore, Gardner would like to request the Committee to consider adding intermodal transportation areas as an additional eligibility within the TIF statutes. This would give the City of Gardner an added economic development tool to aid in making the project a success for everyone.

Mayor Lehman introduced Melissa Mundt, Assistant City Administrator, of the city of Gardner to give her testimony as a proponent of **SB 316**. Ms. Mundt presented written copy. (Attachment 7) She stated the City of Gardner is requesting a change in the TIF legislation to provide financing the massive amount of public infrastructure required to support the intermodal project. She asked for the following additions to **SB 316**:

- Adding “intermodal transportation area” as a new category to the types of eligible TIF areas
- Adding a definition of “intermodal transportation area” to mean an area of not less than 800 acres to be developed primarily to handle the transfer, storage and distribution of freight through railway and trucking operations.
- Permitting redevelopment project costs for intermodal transportation areas to include the acquisition of land for, and the construction and installation of, publicly-owned infrastructure improvements which serve an intermodal transportation area but may be located outside of the TIF District.

Ms. Mundt introduced Dottie Riley, Bond Counsel for the City of Gardner to give her testimony. She did not have written copy. Ms. Riley stated she would like to clarify what the City of Gardner is requesting. The City of Gardner is requesting that the Committee add to the list of eligible areas regarded as TIF areas the ability for cities to form a TIF district in intermodal transportation areas. Specifically the intermodal transportation area would be an area of not less than 800 acres to be developed primarily to handle the transfer, storage, and distribution of freight through railway and trucking operations. With the addition of that as an eligible area the city would have the option to create a TIF district for this intermodal area and would ask for an additional change to the TIF statute for use of the local revenue which would permit the city to utilize the TIF revenue generated from the intermodal area to finance publically owned infrastructure that is necessary to serve this intermodal development. These additions in the two statutes would provide the city with a helpful financing tool to begin to have a vehicle to offset some of the expense associated with the infrastructure they will need to support for this project.

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:15 A.M. on February 15, 2007 in Room 123-S of the Capitol.

Questions followed.

Chairperson Jordan called on Dottie Riley, Kutak Rock LLP, again, this time representing the cities of Lenexa and Wichita, to give her testimony as a proponent of **SB 316**. Ms. Riley submitted written copy. (Attachment 8) Ms. Riley offered an amendment on behalf of the City of Lenexa and the City of Wichita to provide cities with a better tool to encourage development for the benefit of conservation of land as well as the promotion of economic development which is attached to her testimony. The amendment would allow cities to use TIF revenue to finance multilevel parking facilities that are owned by or leased to developers.

Questions followed.

Chairperson Jordan introduced Erik Sartorius representing the City of Overland Park to give his testimony as a proponent of **SB 316**. Mr. Sartorius presented written testimony. (Attachment 9) Mr. Sartorius stated the City of Overland Park is in support of **SB 316**. Overland Park is in favor of an amendment which addresses the multilevel parking facilities.

Chairperson Jordan introduced Mike Scanlon, City Administrator of the City of Mission to give his testimony as a proponent of **SB 316**. Mr. Scanlon presented written copy. (Attachment 10) Mr. Scanlon stated they are in support of an amendment to broaden the definition for TIF reimbursable costs to include multi-level parking structures.

Questions and discussion followed.

With no further testimony, questions, or discussion Chairperson Jordan closed the hearing on **SB 316** and stated the Committee would be working the bill in the meeting tomorrow.

Chairperson Jordan adjourned the meeting at 9:22 a.m. with the next scheduled meeting February 16th at 8:30 a.m. in room 123 S.

**Senate Commerce Committee
Guest List**

Date: 2/15/07

Marcia Hornung	
Katharine Jackson	
Michael Brighton	
Jeff Sturdy	
Jay Spencer	
Jennifer Hill	
Neil Sumner	
Lindsey Huckleby	
Polly Stocklein	
MARK BORANYAK	
Larry R Baer	CKM
Denny Burgess	B+A
Annie Sutton	
Mrs. Williams	
Andrea Bryant Sladin	
TJ VILKANSKAS	
Brady Miller	
Andrea Grier	
DAN KNIGHT	
Chuck Adams	
Chad Giles	KTLA
Mike Huttles	Schutterbahn
Erik Sartorius	City of Overland Park
Carol Lehman	City of Gardner
Melissa Mundt	City of Gardner

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

545N-Statehouse, 300 SW 10th Ave.
Topeka, Kansas 66612-1504
(785) 296-3181 ♦ FAX (785) 296-3824

kslegres@klrd.state.ks.us

http://www.kslegislature.org/klrd

January 23, 2007

History of Tax Increment Financing (TIF) and Sales Tax and Revenue (STAR) Bonds

The following memorandum will look at all of the legislative changes made to the Tax Increment Financing (pages 1-7) and Sales Tax and Revenue Bond statutes (pages 7-17).

Tax Increment Financing (TIF)

During the 1976 Session, HB 2666, authorized cities to acquire property in downtown commercial areas by eminent domain, if necessary, for redevelopment purposes. Cities were authorized to issue special obligation bonds to pay for the cost of the acquisition and clearing of the redevelopment site, the cost of relocation assistance, necessary related street and municipal utility costs, and other related project expenses. The special obligation bonds were to be paid by the tax increment produced due to the increase in assessed value over the old assessed value of the project area or by private or other governmental assistance. The bonds would not be a general obligation of the city. The increment would apply only to the city, the county, and the school district involved. All other taxing subdivisions would continue to receive taxes as under current law.

Procedures a city must follow to implement a downtown redevelopment project under HB 2666 include:

- A city must adopt a resolution finding that the downtown area to be redeveloped is blighted and its redevelopment is necessary to promote the economic and general welfare of the city. A majority of 10 factors must be found before an area can be found to be blighted.
- Before any project shall be undertaken the city must be provided with a feasibility study which shows the benefits will exceed the costs and the income will be sufficient to pay for the cost of the project.
- The city is required to prepare a redevelopment plan in consultation with the planning commission of the city. This plan must include: (1) a summary of the feasibility study; (2) a description and map of the area to be redeveloped; (3) the relocation assistance plan; and (4) a description of what is to be constructed. The planning commission must find the redevelopment plan is consistent with the comprehensive general plan of the city.
- The city must then adopt a resolution stating it is considering adopting the redevelopment plan. This resolution must fix a time and place for a public

Senate Commerce Committee

February 15, 2007

Attachment

1-1

hearing and describe the boundaries of the downtown commercial area of the city and the specific area to be included in the proposed project. A copy of this resolution must be mailed to each owner and occupant of the land in the project area and to the county and school district involved. The resolution must be published for three consecutive weeks.

- Following the hearing, the city may adopt the redevelopment plan by adoption of an ordinance by a 2/3 vote. Any substantial changes in the redevelopment plan must be subject to another public hearing procedure.
- The county commission and the board of education of the school district levying taxes on the property have 30 days following the public hearing to determine if the project will have an adverse effect on them. Their finding of an adverse effect must be done by passage of a resolution which would halt the project. They need not approve the project if no adverse effect is found.
- Any city which has adopted a redevelopment plan may purchase or acquire real property. A 2/3 vote of the city's governing body is required, however, to acquire land by eminent domain.
- Relocation assistance includes payments to persons, families, and businesses who have to move. No person or families residing in the downtown project area will be displaced until suitable housing is available. Retailers shall be entitled to damages sustained due to liquidating inventories.
- The use of industrial revenue bonds in connection with this act is prohibited.

In **1979**, the law was changed by Substitute for SB 454, which amended approximately 200 statutes authorizing various ad valorem property tax levies for cities, counties, and school districts to specify that a portion of these tax moneys may be used to pay the principal and interest on bonds issued under the tax increment act. The bill requires that ad valorem property taxes levied by cities and counties under home rule must allow a portion of these taxes to be used to pay principal and interest on bonds issued under the tax increment law. It struck the term "downtown commercial areas" from tax increment law and replaced it with the term "central business district" and made various cleanup amendments. The bill was in response to a Kansas District Court decision which held the city tax increment financing law to be unconstitutional. The tax increment financing law allowed cities to acquire rundown property in their central business districts by eminent domain, if necessary, for redevelopment purposes. Cities were authorized to issue special obligation bonds to pay for the cost of the acquisition and clearing of necessary related street and municipal utility costs and other related project expenses. Developers then must buy the land and build the improvements thereon. The special obligation bonds are to be paid by the tax increment produced by the increase of assessed value over the old assessed value in the project area.

In **1982**, the law was amended by HB 3121, which authorized the creation of enterprise zones in cities to aid economically distressed areas by providing tax and other incentives for business and industrial development therein. Business and industrial development incentives available for areas designated as enterprise zones include preferences for state programs, funds and services which impact on the economic viability of the area, as well as a relaxation of state agency rules and regulations. Tax increment financing, which was available only for use in central business districts, is made available also in areas designated as enterprise zones. Eminent domain, however, can only be exercised in central business districts.

In **1984**, the law was amended by Substitute for SB 631 to authorize a second category of bonds which may be issued under the act— full faith and credit tax increment bonds. Under prior law, only special obligation bonds could be issued and the full faith and credit of the city could not have been pledged as backing for the bonds.

The bill requires that the resolution, which a city must publish giving public notice of its plans to undertake a redevelopment project, must include notice of the city's intent to issue full faith and credit tax increment bonds. A protest petition procedure was established whereby 3 percent of the qualified electors may protest the issuance of full faith and credit tax increment bonds within 60 days of the date of the public hearing thereby requiring an election on the issue. No election shall be held if either the board of county commissioners or the school board vetoes the proposed project, as either may do under the law. Failure of the voters to approve the issuance of full faith and credit tax increment bonds shall not prevent the city from issuing special obligation bonds. The amount of full faith and credit tax increment bonds outstanding which exceed 3 percent of the assessed value of the city shall be within the bonded debt limits applicable to the city.

The bill also contained a special procedure for cities (*e.g.*, Manhattan) which had already adopted a redevelopment plan under this act but had not commenced the acquisition of property. This provision permits the cities to issue full faith and credit tax increment bonds subject to a mandatory vote on the issue.

The bill also permitted cities to issue temporary notes during the progress of any redevelopment project if the city's costs would be financed in whole or in part by full faith and credit tax increment bonds.

The **1988** change to the Act occurred in HB 2670, which made major changes to the law. The areas of cities where the tax increment law can be used were expanded to include any blighted area. Prior law was limited to central business districts and enterprise zones.

The tax increment proceeds may be obtained from all real property in a redevelopment district designated by the city governing body. Prior law limited the tax increment proceeds to real property within the redevelopment project area only.

The bill also extended the time frame under which projects must be completed to 15 years and authorized separate development stages for projects. Prior law required projects to be commenced within one year of the acquisition of property and completed within five years of the adoption of the redevelopment plan. Excess tax increment proceeds from one project within a district may be used for other projects within the district subject to the 15-year time limitation.

The bill created a two-step approval process – one for the initial establishment of the redevelopment district and the other for each specific redevelopment project to be undertaken. Both stages require notice and a public hearing. The bill also clarified and expanded the purposes for which tax increment bonds could be issued.

The **1991** changes to the Act occurred in HB 2124, which allowed for environmental remediation. The governing body of any city, which has entered into contracts with the Kansas Department of Health and Environment (KDHE) or the United States Environmental Protection Agency (EPA), may pledge tax increments receivable in future years to pay costs directly related to the investigation and remediation of environmentally contaminated areas. Contract provisions dealing with the pledging of the tax increment are exempted from requirements of the cash basis and budget laws. Projects must be completed within 20 years from the date the city enters into a consent decree with either KDHE or EPA.

A provision was added to the definition of "blighted area" to permit a tax increment financing district to be created whenever an area has been identified as being environmentally contaminated to an extent that requires further investigation or remediation. The bill also outlined four preconditions for the establishment by the city of tax increments for remediation projects in blighted areas.

Regular appraisal procedures must be used to establish fair market values of all property within the district and such values are subject to annual review as is any other property. The city is authorized to establish the increment, adjustable each year, as a percentage of not to exceed 20 percent of the amount of taxes that are produced in the redevelopment district in the year the district is established. The increment must be in an amount sufficient to pay costs anticipated to be incurred each year, including the principal and interest of any increment bonds.

The city is required to create a special fund and an annual budget for these tax increment moneys. Any moneys collected from responsible parties will either be paid into this fund, plus interest, or be distributed to parties who have entered into a contract with the city to pay part of the costs if the contract provides for their reimbursement from other third parties responsible for the contamination. Any moneys remaining after the project is completed must be returned to the city, the county, and the school district which had agreed to forego a portion of their ad valorem taxes for this project.

During **1992**, Substitute for HB 2681 created the Enterprise Zone Act, which stated that areas designated by cities as enterprise zones prior to July 1, 1992, may include redevelopment districts.

The **1996** Legislature made substantial changes to the TIF law in HB 2878 as follows:

- Expanded the definition of eligible redevelopment areas to include conservation areas; a "conservation area" is defined as any improved area within city limits in which 50 percent or more of the structures in the area are 35 years or older and which is not yet blighted but may become blighted because of a combination of two or more factors specified in the bill; however, the conservation area may not exceed 15 percent of the land area of the city;
- Extended the time frame for project completion of a redevelopment project using TIF from a maximum of 15 years to a maximum of 20 years (this is the same time frame that applies to increment financing for projects relating to environmental investigation and remediation);
- Required that increases in ad valorem taxes collected by *all* taxing subdivisions on real property located within any currently existing or subsequently created redevelopment district areas be included in the increment used to retire the bonds (under prior law, the "taxing subdivision" included only the county, the city, and the unified school district in which the redevelopment district was located);
- Permitted the use of a portion or all of the revenue received by the city from local sales tax to secure special obligation bonds for any redevelopment project (under existing law, local sales tax may only be used for the project of the magnitude identified above);
- Permitted the use of a portion or all of the increased revenue received by the city from retailers' sales tax and from franchise fees collected from utilities and other

businesses using public right-of-way within the redevelopment district to secure the special obligation bonds for any redevelopment project;

- Permitted cities and school districts to negotiate a redevelopment project in which only a portion of the increment arising from the 35 mills school levy (which is now 20 mills) is pledged to the project (under prior law, the entire increment or no increment had to be applied to such project);
- Prohibited cities from exercising the power of eminent domain to acquire real property in a conservation area.

HB 2878 also amended the Kansas Neighborhood Revitalization Act to allow the use of tax increment financing for a dilapidated structure (defined in the bill), which is located outside of a designated revitalization area.

The act was amended during **1998** with enactment of SB 672 which caused the 20-year period allowed for the financing of a tax increment financing project to be triggered by transmittal of a redevelopment plan, or revised plan submitted under conditions specified below, to the county in which the redevelopment district is located. Under prior law, the 20-year period was triggered by the creation of a redevelopment district.

The bill authorized the City of Topeka to adopt an ordinance to revise a previously approved but dormant redevelopment plan for an area, which includes a portion of the land under the jurisdiction of the Capitol Area Plaza Authority. The bill required the city's ordinance to: revise the project areas of the previously adopted plan into one or more separate stages; fix a date of completion for each stage; and adopt, by reference, a revised plan containing specified information, including a summary of a new comprehensive feasibility study.

The **2001** Legislature made several changes to the Act in Substitute for HB 2005. Under prior law, the TIF statutes required the city to: adopt a resolution and give notice that a redevelopment district will be established; hold a public hearing on the establishment of development district; pass a resolution making appropriate findings and pass an ordinance establishing the redevelopment district; develop a redevelopment plan for the redevelopment project area, including a feasibility study, map, relocation matters, details about the buildings and facilities, and other items; have the planning commission find that the redevelopment plan is consistent with the comprehensive general plan of the city; adopt a resolution and give 30-70 days' notice that a redevelopment plan will be adopted and, if full faith and credit bonds will be issued, state that intent in the resolution; hold a hearing on the redevelopment plan; and pass an ordinance with at least a two-thirds vote adopting the redevelopment plan. Once the redevelopment plan has been adopted, the city may purchase or otherwise acquire real property. Eminent domain proceedings may be pursued (except in conservation areas) upon two-thirds vote of the governing body of the city. The redevelopment plan may be undertaken in separate stages. Projects within the redevelopment district must be completed within 20 years after the transmittal of a redevelopment plan to the county and, for environmentally-related projects, within 20 years from the date of a consent decree agreement with environmental regulators.

Most of the amendments to the TIF statutes involved reorganization or clarification. The most notable of such amendments are listed below:

- **New Definition Section.** A new definition section consolidated many of the specialized terms used in the TIF statutes which are, for the most part, spread throughout the statutes.

- Provisions—No Longer Relevant. Several provisions were deleted because they were no longer relevant. Specifically, these provision referring to the Topeka Capitol Complex project which was under construction.
- Consolidations. The bill consolidated the provisions related to a city's procedures for establishing a redevelopment district. The bill also consolidated the provisions related to project plans for proposed redevelopment projects, the resolution requirements, hearing requirements, post hearing procedures, and the disposition of the project once it has been approved.
- Clarification Concerning Substantial Changes to the Project Plan. The TIF statutes required notice and a public hearing if a change was made to a project plan and if that change deviated substantially from the intent of a city's comprehensive plan. The bill amended that provision to clarify that notice and hearing will be required if a proposed change causes the redevelopment district plan or project plan to deviate substantially from the approved district or project plan and not from the city's comprehensive plan.

The bill included several substantive policy amendments:

- Starting Point for Tax Increments. Under prior law, the collection of tax increments was triggered by the transmittal of a redevelopment plan. The bill made the trigger point the establishment date of the redevelopment district. The definition of the terms "tax increment" and "base year assessed valuation" in the bill clarify that intent.
- Treatment of Changes to Property Within Redevelopment Districts. The bill included procedures for treating the valuation of property that is added to or removed from a redevelopment district, or that is divided within a redevelopment district into more than one redevelopment district. The existing statute is silent concerning the valuation of remaining property within the redevelopment district when such modifications occur. Moreover, the bill defined the term *de minimus* as an amount of less than 15 percent of the land area within a redevelopment district. If the city wished to remove more than the *de minimus* amount of property from the redevelopment district or if the city wished to divide property within the redevelopment district into more than one district, a feasibility study would be required as a precondition for such action. Public notice and hearing were required if property is divided within a district into separate redevelopment districts. (Public notice and hearing is required in current law for property added to a redevelopment district and for substantial changes to the comprehensive plan.)
- Completion of TIF Project. Under prior law, the deadline for completion of a project within the redevelopment district was within 20 years from the date the redevelopment project plan was transmitted to the county. The bill amended the law to tie the completion of the TIF project to within 20 years of approval by the city of the project plan.

Again, in **2004**, with enactment of SB 235, changes were made to the TIF Act. The bill allowed a city to extend the amount of time for remediation of an environmentally contaminated area to 30 years after receiving the approval of the board of county commissioners and the local board of education. Prior law limited the amount of time to 20 years.

The final amendments were made in **2005** HB 2140, which changed the definition of "blighted area" within the TIF statutes to include property that has "a majority of the property" in a 100-year flood plain. In addition, both a Kansas certified engineer and the United States Federal Emergency Management Agency were required to identify the majority of the property as existing in the 100-year flood plain.

Also in **2005**, HB 2144 amended TIF statutes to clarify TIF statutes and amended 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.

Sales Tax and Revenue (STAR) Bonds

The first STAR bond legislation occurred in 1993 with the enactment of SB 421, commonly known as "The Wonderful World of Oz" Theme Park and Resort Sales Tax Increment Financing legislation. The bill permitted a pledge of a portion or all of revenues from sales, use, and transient guest taxes collected within that portion of a city's redevelopment district occupied by a redevelopment project to the repayment of special obligation bonds and interest thereon for the proposed redevelopment project. Such revenues must be generated from sales occurring within that portion of the redevelopment district. The bond issue was conditional upon a finding by the Secretary of Commerce and Housing that the project is of statewide as well as of local importance. This finding was based on two conclusions:

- Capital improvements costing not less than \$300 million will be built in the state for the redevelopment project; and
- Not less than 1,500 permanent and seasonal positions will be created in the state by the redevelopment project.

The city is prohibited from issuing full faith and credit tax increment bonds for the proposed redevelopment project.

The bill authorized the city to enlarge enterprise zones established prior to July 1, 1992 (the date the old enterprise zone law was repealed) to encompass the proposed redevelopment project. Before such authorization is granted, the Secretary of Commerce and Housing must conclude that the project is of statewide importance and will meet the investment and job creation criteria addressed above.

The City Bond Finance Fund was established. All state sales and use taxes from sales within the redevelopment project will be credited to the fund and will be distributed to the city to pay the interest and principal of the bonds. In addition, the city will pledge all or any portion of its revenue from local sales tax and transient guest tax for that purpose.

The establishment or operation of a lottery is prohibited within the redevelopment district.

Public funds may not be used to pay the holders of special obligation bonds issued for purposes of this act in the event that there is a default in the payment of such bonds.

Finally, no assessment against a property may be made for any infrastructure construction unless that property abuts the site of the proposed redevelopment project or supporting infrastructure and it has been determined that the abutting property specifically benefits from the construction.

During 1997, the law was amended with enactment of SB 280. Specifically, the bill authorized the use of transient guest, sales, and use tax proceeds to retire special obligation bonds issued to finance the construction of buildings or other structures to be owned by, or to be leased to, developers. (Special obligation bonds backed by this type of revenue stream often are referred to as STAR bonds.) In addition, the bill authorizes the use of proceeds of special obligation bonds (which may be backed by various revenue sources, such as property tax increments) for construction of buildings to be owned by, or to be leased to, developers. Such construction projects must occur within redevelopment districts that will include some or all of the land and buildings of Topeka State Hospital and Winfield State Hospital. (The redevelopment districts must be established as a precondition for such financing.)

Under prior law, proceeds from the sale of special obligation bonds could only be used for: property acquisition; relocation assistance payments; site preparation; specified infrastructure improvements; and all related redevelopment project expenditures. The bill has the effect of expanding the type of projects that may be financed from special obligation bond proceeds.

During 1998, Substitute for SB 675 provided an alternative site for the Oz Theme Park and Resort and amended the STAR bond statutes. The bill established a mechanism for creating a redevelopment district within federal enclaves in which STAR bonds may be used to finance "projects of statewide as well as local importance." Specifically, the federal enclaves in the bill refer to the Sunflower Ammunition site in Johnson County and the Parsons Ammunition site in Labette County. The U.S. Army would like to dispose of both these sites.

The Sunflower Ammunition site would be considered an alternative site to an area under consideration in Wyandotte County for the development of the Oz Theme Park and Resort. The bill authorized the Kansas Development Finance Authority (KDFA) to issue bonds to finance the project at the Sunflower Ammunition site because the project would be developed within a federal enclave outside city limits. Although cities are authorized under STAR bonds statute to issue bonds for projects of statewide as well as local importance (*e.g.*, the Oz project), the KDFA is authorized in the bill to issue bonds for the Oz project if the developer decides to select Wyandotte County as the project site. Therefore, the Unified Government of Wyandotte County/Kansas City, Kansas now has two options: bonds for the Oz project may be issued by Kansas City or the KDFA.

As is required in the law, the Secretary of Commerce and Housing must designate the redevelopment project as being of statewide as well as local importance as a precondition for any bond issues. To be designated as being of statewide as well as of local importance, a project at the Sunflower Ammunition site would be subject to the same capital improvement commitments (at least \$300 million) and employment commitments (at least 1,500 positions) as would be required of a project within the redevelopment district of a city under TIF law. For a project at the Parsons Ammunition site, developers would have to commit to at least \$5 million in capital improvements and employment of at least 150 positions.

The procedures for establishing the redevelopment district and redevelopment plan are essentially the same for projects within federal enclaves as for any project that may be

developed within a city under TIF law. Moreover, as is authorized in law, this bill allows local transient guest tax, local sales tax, and state sales and use tax revenues from the redevelopment district to be pledged to repay any bonds (sales tax and revenue or STAR Bonds) that finance a project of statewide and local importance. Bonds for this type of project could be issued for no more than 20 years (the same as in TIF law). For purposes of redevelopment projects in federal enclaves (Johnson County or Labette County), the following taxes would be levied or collected within the redevelopment district to repay the bonds issued by the K DFA for the project:

- State sales and use tax at the rate of 5.9 percent (the 1.0 percent increase over the existing state sales tax rate corresponds to the 1.0 percent city sales tax rate that would be captured if the Oz project were located in Kansas City);
- Transient guest tax at the rate of 5.0 percent; and
- Countywide sales tax at the rate of 0.5 percent, and an additional county sales tax at a rate of 0.5 percent only within the redevelopment district.

The revenues could only be levied or collected for the duration of the bond repayment but could not exceed 20 years after establishment of the redevelopment district (whichever occurs earlier).

The bill authorized the enlargement of an enterprise zone by the Unified Government of Wyandotte County/Kansas City, Kansas for the Oz project even if the enlargement extends beyond Kansas City's boundary. Under prior law, the original location for the Oz project was an enterprise zone located completely in Kansas City. The bill also requires the developer of the Oz project to reimburse, within one year of the commencement of project construction, the Unified Government of Wyandotte County/Kansas City, Kansas for cash investments in the project and for the use of the local government's employees and other resources during the course of negotiations with the developer if the developer elects to construct the project in Johnson County. The Secretary of Commerce and Housing must determine the amount of reimbursement based on documentation.

Finally, the bill clarified that the state, local units of government, and the K DFA will not assume responsibility for any environmental remediation required to be performed in any redevelopment district within a federal enclave.

Also in **1998**, the Legislature enacted HB 2631 for the Auto Race Track Facility. The bill authorized the unified government of Wyandotte County/Kansas City, Kansas to utilize 30-year special obligation bonds to finance an auto race track facility rather than the 20-year bonds otherwise authorized. However, STAR bonds, paid from sales and other excise taxes, may be issued for 30 years only if the Governor makes a finding that the longer term is necessary for the economic feasibility of the track's funding. All of the payments in lieu of taxes made by the track will go toward the bonds, financed from payments in lieu of property taxes, rather than only the increment. Further development of the major tourism area is limited to a 400-acre parcel described in the bill and would be eligible for 20-year STAR bonds, but not for TIF bonds. Qualified competitive bidding is required for the underwriting services for the bonds.

"Race track facility" is defined to include grandstands, suites and viewing areas, concessions and souvenir facilities, catering facilities, visitor and retail centers, signage, and temporary hospitality facilities, but excludes hotels, motels, restaurants, and retail facilities not included above.

Owners of property condemned for the track will receive an additional award equal to 25 percent of the compensation or damage amount otherwise determined. In condemnation proceedings for redevelopment projects other than for the auto race track, a city will be required to offer at least the highest appraised valuation determined for property tax purposes within the last three years by the county appraiser, unless the property had been damaged or destroyed by a catastrophic event. The minimum payment for relocation will be \$500.

S.B. 76, enacted by the **1999** Legislature, expanded the application of STAR Bond financing, to buildings designated as historic theaters. The bill defines "historic theater" as a building constructed prior to 1940, which was constructed for the purpose of staging entertainment, including motion pictures, vaudeville shows, or operas. The building must be owned and operated by a nonprofit corporation. Moreover, the building must be designated by the State Historical Preservation Officer as eligible to be enrolled on the Kansas Register of Historic Places or it must be a member of the Kansas Historic Theatre Association.

The bill authorized a city to designate a building to be an historic theater if the city and the Secretary of Commerce and Housing agree that the building satisfies the definition of "historic theater" and will have a significant impact on the city and surrounding area.

H.B. 2166, also enacted by the **1999** Legislature, amended the Oz Theme Park and Resort legislation enacted in 1998, which established a mechanism for creating development districts within federal enclaves. In those enclaves (Johnson County and Labette County), tax increment financing may be used to finance "projects of statewide as well as local importance." Although not explicitly stated anywhere in the bill, the intended "project of statewide as well as local importance" is the proposed Oz Theme Park and Resort to be developed on the Sunflower Ammunition site in Johnson County. Most of the same provisions in this bill applied to any future project developed on a federal enclave in Labette County that meets certain capital improvement and employment commitments. As authorized in the 1998 legislation, STAR Bonds may be issued by the KDFA for the Oz project. H.B. 2166:

- Extended the maximum maturity of bonds associated with projects of statewide as well as local importance (hereafter referred to as the Oz project) from 20 to 30 years from the issuance of the first series of bonds to finance the project. Under prior law, the duration of the bonds was tied to the establishment of the redevelopment district.
- Excluded the proceeds from the mandatory school finance tax levy, including local property tax levies issued by or on behalf of school districts, as revenue sources to repay the bonds to be issued by the KDFA.
- Prohibited any economic development property tax abatement granted to the Oz project developer from capturing revenue from the DeSoto school district.
- Increased the state sales and compensating use tax rate within a redevelopment district containing the Oz project from the previously authorized rate of 5.9 percent to 6.9 percent. The term of the additional tax will be limited until the earlier of two dates—when the bonds have been fully paid or the date of the final scheduled maturity of the first series of bonds issued for the project. The same limitation will be applied to the 5.0 percent transient guest tax authorized in the 1998 legislation as one of the revenue sources to repay the bonds.

- Authorized KDFA to form a subsidiary corporation—the Kansas Statewide Projects Development Corporation—for the purpose of acquiring or conveying property, issuing bonds, or otherwise financing the Oz project on behalf of the state.
- Conditioned establishment of the redevelopment district in which the Oz project would be located upon approval by the Johnson County Board of Commissioners of the redevelopment agreement between the Oz Entertainment Company and the KDFA.
- Required the developer, as a precondition for taking legal title to the land for the development of the Oz project, to enter into a consent decree agreement with the Kansas Department of Health and Environment or the Environmental Protection Agency. In this agreement, the developer must consent to be responsible for and complete the remediation of all environmental contamination on the land according to established standards and levels for appropriate property uses. Any portion of the land which the federal government has agreed to remediate, subject to an agreement approved by the Governor, will not have to be remediated by the developer. The agreement also must include prepaid third-party financial guarantees to the state or KDFA. These guarantees must be sufficient in form and amount to ensure that the developer will complete the remediation of all the land as required in the agreement.
- Required, as a precondition for taking title to the land, that the state or KDFA obtain the written opinion of a competent attorney specializing in environmental law regarding the state's potential liability resulting from taking title, possession, or otherwise exercising control over the land. The 1998 legislation already expressly precludes the state, any of its political subdivisions, KDFA, or any local governmental unit from assuming responsibility for any environmental remediation to be performed within the redevelopment district in which the Oz project would be located.
- Required that any redevelopment plan for the Oz project must be adopted prior to July 1, 2001.
- Limited the use of bond proceeds for payment or reimbursement of project costs, if bonds have been paid before completion of the project, to any purpose identified in the redevelopment agreement between the Oz Entertainment Company and KDFA.
- Provided that any revenues not needed or committed for the payment of bonds or other project costs, as authorized by the redevelopment agreement, must be remitted by the State Treasurer to the appropriate taxing authorities. KDFA must approve those remittances.
- Amended the 1998 legislation to accurately reflect legislative intent concerning compensation by the Oz developers to the Unified Government of Wyandotte County for expenses incurred by the county for the project.

During **2001**, the Legislature enacted HB 2005, which allowed bond financing for the OZ, NASCAR, and multi-sport facility projects financed up to 30 years. The bill deleted the OZ provision

which placed the project in Wyandotte County (at that time the project had moved to DeSoto in Johnson County); and consolidated existing provisions relating to the NASCAR project.

Also enacted during **2001** was HB 2573, which amended two statutes related to requirements governing the developer of the Oz Entertainment Company, Inc. As a precondition for issuing STAR bonds, the Kansas Development Finance Authority must adopt a redevelopment plan of the proposed Oz Theme Park project. The statutorily-prescribed deadline for adoption was July 1, 2001. The bill extended that deadline to July 1, 2002, if the developer of the Oz Entertainment Company, Inc. had reimbursed the Unified Government of Wyandotte County for cash investments in the project within 120 days after July 1, 2001. The developer was required under prior law to reimburse the Unified Government within one-year of commencement of project construction.

During **2003**, Substitute for HB 2208 was enacted that provided for statewide STAR bond authority for special bond projects of regional or statewide importance. The bill defined a special bond project as a project with at least a \$50,000,000 capital investment and \$50,000,000 in projected gross annual sales revenues. The bill includes in this definition projects located outside of metropolitan statistical areas, which have been found by the Secretary of Commerce to be in an eligible area under TIF law and of regional or statewide importance. The bill specifically excluded a project including a gambling casino from the definition of special bond project.

The bill modified prior law as it relates to areas eligible for STAR bond financing to include a major commercial entertainment and tourism area as determined by the Secretary of Commerce. The bill also included a major multi-sport athletic complex in the definition of major commercial entertainment and tourism area.

Under the bill, river walk canal facilities are included in the list of redevelopment project costs which may be financed by STAR bonds.

The bill allowed the governing body of a city to establish one or more special bond projects in any area in the city. Under the bill, special bond projects are eligible for financing by special obligation STAR bonds. However, each special bond project must be approved by the Secretary of Commerce, based on the required feasibility study, prior to utilizing STAR bond financing. This includes a special bond project located in a redevelopment district established by a city prior to the effective date of the act. If the project plan involves a redevelopment project in Wichita including an arena, a vote of the citizens of Wichita is necessary before the Secretary may approve the special bond project for STAR bond eligibility. A special bond project may not be approved by the Secretary if the required marketing study indicates a substantial negative impact on existing businesses in the projected market area or if granting the special bond project would cause a default in the payment of any outstanding STAR bonds.

The bill requires that 100 percent of local sales taxes be pledged to fund the special obligation bonds except for those amounts committed to other use by election of voters prior to the effective date of the act.

A provision was included in the bill which prohibited a business from benefitting from STAR bond legislation if it relocated from an area in Kansas and within 50 miles of the major commercial, entertainment, and tourism area.

Under the bill, the maximum maturity of special obligation STAR bonds may not exceed 20 years.

The bill set out procedures for undertaking a special bond project, including the requirements for preparing a project plan, holding a hearing on the plan, and the adoption of the project plan. Under the bill, any project was required to be completed within 20 years from the date of the approval of the project plan. One of the required components of the project plan is a feasibility study showing whether a special bond project's benefits and tax increment revenue and other financing are expected to be sufficient to pay for the special bond and the effect, if any, the special bond project will have on any outstanding STAR bonds. Another component of the project plan was a marketing study conducted to examine the impact of the special bond project upon similar businesses in the projected market area.

The developer of a special bond project is required to commence work on the project within two years from the date of adoption of the project plan. If the developer does not commence work on the project within the two-year period, funding for the project ceases and the developer has one year to appeal to the Secretary of Commerce for reapproval of the project. If the project is reapproved, the two-year period for commencement applies.

The bill required that Kansas resident employees be given priority consideration for employment in construction projects located in a special bond project area.

The bill allowed the State Treasurer to place state sales tax increment moneys from taxpayers doing business with entities financed by a special bond project into the City Bond Finance Fund.

The bill required Kansas, Inc. to include an analysis of STAR bonds in that agency's annual report on the cost effectiveness of economic development tax exemptions and credits.

The STAR bond authority provided for special bond projects under the bill will sunset on July 1, 2007.

SB 395, enacted by the **2004** Legislature, amended the law to allow any redevelopment district established prior to January 1, 2003, to continue to receive transient guest, sales and use taxes from taxpayers, whether or not revenues from such taxes are received by the city.

In addition, the bill included the following components:

- STAR bonds could not be used to finance personal property as defined in the state's property tax laws after the effective date of the act.
- Redevelopment districts could be established wholly outside of a city's boundaries with the written approval of the county commission.
- The Department of Commerce is given the authority to adopt rules and regulations.
- Tax increment financing bonds are made payable from all of the revenues received by the city or county from any transient guest, local sales and use taxes which are collected from taxpayers doing business within that portion of the city's redevelopment district.
- A city that owns a building or structure that was financed in whole or in part by STAR bonds is allowed to engage a manager to manage such building or

structure and the contractual relationship will not be deemed as a lease to a developer as defined in the tax increment financing laws.

- A city that exercises eminent domain to acquire property must compensate the property owner at least 125 percent of the highest appraised valuation based on the prior three years' evaluation.
- All cities that have projects financed with STAR bonds are to prepare and submit an annual report to the Governor; the Secretary of Commerce; Kansas, Inc.; and the Legislature by October 1 of each year that describes the status of any projects within the redevelopment area.

During the 2005 Session Substitute for HB 2144 amended STAR bonds law. The changes are as follows.

- The bill amended the STAR bond statutes to add "major motorsports complex" to the list of projects eligible for STAR bonds. The definition of "major motorsports complex" specifies that it is a project located in Shawnee County. In addition, STAR bonds for the major motorsports complex could be used to finance a maximum of 50 percent of the redevelopment project costs.
- The feasibility study for STAR bonds requires 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 will 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;
- An anticipated principal and interest payment schedule on the bonds;
- Following approval of the redevelopment plan, the feasibility study will be supplemented to include a copy of the minutes of the governing body meeting or meetings of the city whose bonding authority will 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 will 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 will not affect the validity of the bonds issued pursuant to the Act.
 - The definition of redevelopment project costs is 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;
 - 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, connections, 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
 - Related expenses to redevelop and finance the redevelopment project, except that for a redevelopment project financed with STAR bonds, such expenses will require prior approval by the Secretary of Commerce.
- The bill prohibited 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" could 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 could not be available for:
 - 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;
 - Lobbying costs; and
 - Bond origination fees paid to the city.
- The auto race track facility and the 400-acre area were limited to no more than \$308,000,000 of STAR bonds. However, bonds issued solely for the purpose of refunding STAR bonds required approval of both the Secretary of the Department of Commerce and the Secretary of the Department of Revenue prior to issuance. If the project required additional STAR bond funding, the Unified Government of Wyandotte County was required to reapply to the Secretary of Commerce. Under prior law, the auto race track facility had no limit on issuing STAR bonds.
- Any city approved for a STAR bond project is 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 Department of Commerce on October 1. The Department of Commerce was required to compile the information and submit a report annually to the Governor; Kansas, Inc.; and the Legislature by February 1 of each year about all STAR bond projects. The reporting requirement also applied to the auto race track project.

- Relocation payments 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 is considered relocation assistance.
- The Secretary of Commerce was required to set a limit on the total amount of STAR bonds that may be issued for any redevelopment project.
- The bill also required an independent certified public accountant annually audit each project at the expense of the city. Any unauthorized payments will be repaid to the bond fund through an agreement with the Department of Revenue.

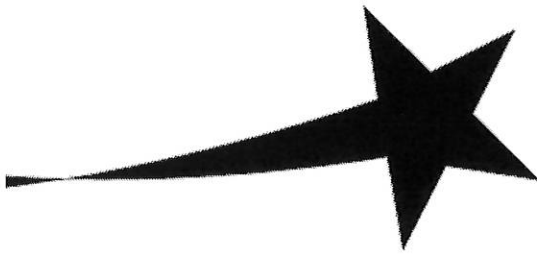
Finally, during the **2006** Legislative Session, SB 324 was enacted which changed the eminent domain requirements for STAR bond statutes. The bill required that:

- Any property acquired by use of eminent domain that is sold, transferred, or leased to a developer for a specific redevelopment project could only be used for the specific approved redevelopment project.
- If the developer does not utilize the entire tract of the property acquired, that portion of property not used could not be sold, transferred, or leased by the developer to another developer or party, but only deeded back to the city.
 - If the developer paid the city for the land, a percentage of the original purchase price paid to the city which represents the percentage of the entire tract being deeded back would be reimbursed to the developer.
- Any transfer by the redevelopment project developer of property acquired by eminent domain would require a two-thirds majority vote of the elected governing body of the city.



KANSAS
DEPARTMENT OF COMMERCE

Steve Kelly, Acting Secretary



SB 316

Testimony Presented by Robert North, Chief Attorney

Senate Commerce Committee

February 15, 2007

For more information on this topic contact:

Patty Clark

Phone: (785) 296-3481

Fax: (785) 296-3665

pclark@kansascommerce.com

www.kansascommerce.com

Senate Commerce Committee

February 15, 2007

Attachment 2-1

**Kansas Department of Commerce
Testimony to
Senate Commerce Committee**

Thank you for the opportunity to appear before you today to discuss Sales Tax and Revenue (STAR) bonds, a powerful financing tool intended to promote the development of major tourism projects in Kansas and stimulate the Kansas economy. The Legislature has statutorily delegated the Secretary of Commerce the authority to determine whether to approve the issuance of STAR bonds to help finance proposed projects.

Commerce would like to propose the following policy amendments and/or clarifications to current STAR bond legislation. Generally, these amendments would make STAR bonds more accessible and clarify issues regarding funding resources and legislative intent.

1. *Making STAR Bonds Available to Counties.*

Current Law: Only cities are currently eligible to utilize STAR bonds and develop projects to be funded with STAR bond proceeds. The proposed amendment would allow counties to access this powerful economic development tool.

Proposed Change: We would like to explore the possibility of allowing counties to initiate STAR bond applications and projects. Commerce anticipates that use by counties would be primarily where a STAR bond project is in a redevelopment district located entirely outside the limits of any city. There has been at least one STAR bond project which has not been able to move forward because the city commissioners would not approve the project regardless of the fact it would be located in an unincorporated portion of the county. Allowing counties to utilize STAR bond financing would add an additional economic development tool to stimulate and develop the Kansas economy.

2. *Funding Sources.*

Current Law: K.S.A. 12-1774 is the primary source of language pertaining to the sources of revenues which may or must (depending on the interpretation) be pledged to repay STAR bonds. The statute lists seven potential sources of revenue to repay STAR bonds but is internally inconsistent and needs significant clarification. Much of the inconsistency is created by the fact the statute is applicable to TIF projects, STAR bonds, and Bioscience Authority projects. Varying interpretations range from an assertion that **all** listed revenue sources **must** be pledged to repay STAR bonds; to an assertion the only mandatory source of revenue is the city's share of local sales tax. An example of one internal inconsistency arises when K.S.A. 12-1774(a)(1)(H) is compared to 12-1774(a)(1)(D). In the former, there is no geographic restriction to the phrase that "100% of city and county sales taxes shall be pledged . . .," while in the latter the pledge is (logically) restricted to ". . . taxes collected from taxpayers **doing business with that portion of**

the city's redevelopment district . . ." The former, if read literally, would require **all** county and city sales tax revenues to be pledged regardless of whether the revenue was generated within the redevelopment district. Another inconsistency is found when comparing K.S.A. 12-1774(a)(1)(F) which pertains to the pledge of county transient guest, local sales and use taxes and begins ". . . **with the approval of the county . . .**" making the counties participation appear volitional. However, the qualifying phrase "**with the approval of the county . . .**" is absent from K.S.A. 12-1774(a)(1)(H) which can be construed to mean for projects subject to or funded under that subsection, a county **must** pledge its local sales tax and other revenues. Other interpretational and consistency issues exist in the current language.

Proposed Change: Commerce would like to clarify the nature of the funding sources to be pledged to repay STAR bonds. The Secretary of Commerce should have flexibility to approve project financing based on the general criteria set forth in the Act. The Secretary should have discretion to require that some or all of the listed funding sources be pledged. This determination would be on a case-by-case basis to insure the fiscal integrity of a particular project. At a minimum, city sales tax, the city share of county sales tax, and state sales tax increments generated within the redevelopment district would be pledged to repay STAR bonds. The Secretary would have the discretion to require a city to pledge additional revenue streams, i.e. transient guest tax, local use, franchise fees, and similar taxes. If necessary, and with the consent of the county, a portion or all of the county sales, transient guest, franchise fees, local use, and other similar taxes could be pledged to insure adequate revenue streams are generated within the redevelopment district.

3. *Sales and Other Tax Increments.*

Current Law: Currently the law requires that **all**, rather than the increments, of state and local sales (and related) tax revenues from businesses located within the redevelopment district be pledged to repay STAR bonds. This may have an adverse impact on cities (and some counties) whose project is located in an area with existing retail businesses generating sales tax revenues. This requires cities and/or counties to take a reduction in current revenue in addition to "foregoing" the revenues created by the STAR bond project. This may have a deterrent to certain projects in districts with existing retail businesses.

Proposed Change: Only tax increments of the various sources of revenues should be required to repay STAR bonds so that cities and counties do not sustain adverse fiscal impact by creating projects in districts with existing retail sales. Allowing cities and counties the flexibility to pledge the "increment" rather than capture existing tax revenues would be an incentive for cities and counties to work collectively to reach agreement on pledging revenues to repay STAR bonds. If a local unit of government must forego existing revenue, then it is more unlikely that project will obtain approval from the local governing bodies. This amendment would also have the effect of providing an equal opportunity for projects in areas with existing retail as compared to "green field" projects. This proposal appears consistent with one of the primary purposes of the STAR bond legislation which is to encourage **redevelopment** projects in districts with existing retail tax base.

4. *Fifty Percent Limit on Project Costs.*

Current Law: The law currently imposes a 50% STAR bond funding limit for the total cost of a project only for the Heartland Park Race Track development.

Proposed Change: Commerce also supports amending the STAR bond act to limit the amount of STAR bonds that can be utilized on any particular project to no more than 50% of project costs. Currently this provision is in the law as pertaining to the Heartland Park Race Track Project but is not applicable to all other projects. While Commerce has adopted regulations containing this requirement, the agency would like to enact such a limitation into statute. This would clarify the local/state partnership that is at the heart of sound economic development legislation.

Thank you for the opportunity to discuss possible STAR bond amendments. We would be happy to stand for any questions.

HUTFLES GOVERNMENT RELATIONS, INC.

MIKE HUTFLES, PRESIDENT

800 SW JACKSON ST., SUITE 808

TOPEKA, KS 66612

785-554-0628

mike_hutfles@sunflower.com

Chairman Brownlee and members of the Senate Commerce Committee, I appear before you today on behalf of Schlitterbahn Vacation Village. We are here to support the reauthorization of STAR Bonds for Kansas.

STAR Bonds have proven to be an extremely powerful economic development tool available to communities. The Kansas Speedway/Legends area in Wyandotte County speaks for itself. Projects have been approved in Topeka, Hutchinson and Manhattan. Our Vacation Village will be like no other tourist destination in the 4-state region.

As you consider the reauthorization of STAR Bonds, we urge you to keep the standards high. The Kansas Department of Commerce should be commended on their efforts in this regard. Schlitterbahn will attest to the hard work and due diligence required to be able to access STAR Bonds for our project; we do not see this as a bad thing – quite the contrary,

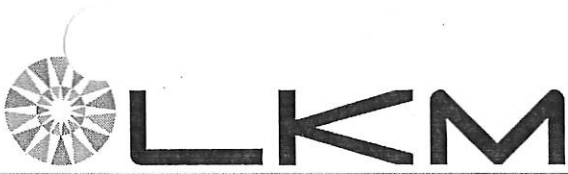
Schlitterbahn does have 2 requests.

1. We are requesting an amendment to SB 316 (see the attached balloon). On page 4, we would like to strike “located adjacent to a river” from the ‘River walk canal facilities’ definition. This definition was created 5 years ago when Wichita was considering a River walk as part of their downtown redevelopment. Schlitterbahn will use an extensive network of river walk canals to transport visitors throughout the area.
2. We also seek clarification on New Section 18.

Thank you for this opportunity to testify on SB 316. We look forward to welcoming our first visitors to our latest Schlitterbahn facility, the first located outside of Texas. We also look forward to our continued partnerships with Kansas and the Unified Government. I will attempt to answer any questions you may have.

Senate Commerce Committee
February 15, 2007
Attachment 3-1

- 1 to a developer, however, project costs shall include costs incurred in con-
2 nection with the construction of buildings or other structures to be owned
3 or leased to a developer which includes an auto race track facility. In
4 addition, project costs shall not include:
- 5 (A) Fees and commissions paid to real estate agents, financial advisors
6 or any other consultants who represent the businesses considering locat-
7 ing in a STAR bond project district;
 - 8 (B) salaries for local government employees;
 - 9 (C) moving expenses for employees of the businesses locating within
10 the STAR bond project district;
 - 11 (D) property taxes for businesses that locate in the STAR bond pro-
12 ject district;
 - 13 (E) lobbying costs; and
 - 14 (F) a bond origination fee charged by the city pursuant to K.S.A. 12-
15 1742, and amendments thereto.
- 16 (q) "Projected market area" means any area within the state in which
17 the STAR bond project is projected to have a substantial fiscal or market
18 impact upon businesses in such area.
- 19 (r) "River walk canal facilities" means a canal and related water fea-
20 tures ~~located adjacent to a river, which flows through a major commercial~~
21 entertainment and tourism area and facilities related or contiguous
22 thereto, including, but not limited to, pedestrian walkways and prome-
23 nades, landscaping and parking facilities.
- 24 (s) "Sales tax and revenue" are those revenues available to finance
25 the issuance of special obligation bonds as identified in section 9, and
26 amendments thereto.
- 27 (t) "STAR bond" means sales tax and revenue bond.
- 28 (u) "STAR bond project" means an approved project to implement
29 a project plan for the development of the established STAR bond project
30 district with:
- 31 (1) At least a \$50,000,000 capital investment and \$50,000,000 in pro-
32 jected gross annual sales; or
 - 33 (2) for areas outside of metropolitan statistical areas, as defined by
34 the federal office of management and budget, the secretary finds:
 - 35 (A) The project is an eligible area as defined in subsection (f); and
 - 36 (B) would be of statewide or multi-state significance; or
 - 37 (3) is a major tourism area as defined in section 2, and amendments
38 thereto.
 - 39 (v) "STAR bond project area" or "project area" means the geographic
40 area within the STAR bond district in which there may be one or more
41 projects.
 - 42 (w) "STAR bond project district" or "project district" means the spe-
43 cific area declared to be an eligible area as determined by the secretary



League of Kansas Municipalities

300 SW 8th Avenue- STE . . .
Topeka, Kansas 66603-3951
Phone: (785) 354-9565
Fax: (785) 354-4186

Date: February 14, 2007
To: Senate Commerce Committee
From: Larry R. Baer
Assistant General Counsel
Re: SB 316
Testimony in Support

Thank you for allowing me to appear before you today and present testimony in support of SB 316 on behalf of the League of Kansas Municipalities and its 627 member cities.

SB 316 would divide the tax increment finance procedures and STAR bond procedures into two separate acts. This is done without substantive changes being made to either procedure. The intended result of this legislation is to clarify what statutory provisions apply to each procedure.

The League has long supported legislation to permit the use of both tax increment financing and STAR bonds on a statewide basis. We believe that the continued ability of cities to finance public-private projects with either or both remains an integral part of development and growth for cities.

The League strives to see that legislation on a subject is clear, concise and subject to application without confusion. The current TIF and STAR bond legislation has led to some confusion by cities and others trying to interpret and use it. We believe that the division of the TIF and STAR bond procedures that is proposed in SB 316 clarifies the procedures and should simplify their application. It is important that the division has occurred without any substantive changes to current law.

The League of Kansas Municipalities supports SB 316 and asks that the committee pass it out favorably.

Again, thank you for allowing me to appear before you today.



TO: Senate Commerce Committee
FROM: City of Olathe
SUBJECT: Testimony in Support of S.B. 316, with Amendments

My name is Michael Wilkes and I am the City Manager of Olathe. Thank you for the opportunity to address you this morning regarding SB 316. The City believes STAR bonds are an invaluable tool to create jobs and considerable investment in Kansas. The City recognizes there are concerns about STAR bond legislation in its current form.

S.B. 316 renews this valuable tool and it takes positive steps to address those concerns. However, the City, along with our Bond Counsel, is prepared to recommend amendment language that we believe will better address the concerns and allow this effective tool to be used as intended by the legislature.

There has been considerable concern about how STAR bond proceeds are used in terms of what are eligible costs. The legislature, the Attorney General, cities and attorneys have all struggled with this issue. In fact, the language was so ambiguous that the City asked for and received an Attorney General's opinion on the issue. The City believes that some changes to SB 316 will clarify the ambiguity on the issue of eligible costs.

The City requests that SB 316 contain language to allow that STAR bond proceeds be used to finance any costs, including privately-owned buildings and structures, necessary for a project except for certain prohibited uses that are contained in current law (for example, personal property, bond issuance fees, consultant fees, etc.) so long as at least 50% of the project is not being financed with STAR bonds.

The City and our Bond Counsel would be happy to work with the Committee to develop amendment language to address these issues.

Thank you for the opportunity to present our view on this very important economic development tool.

Senate Commerce Committee
February 15, 2007
Attachment 5



TESTIMONY

to
KANSAS SENATE
COMMERCE COMMITTEE

Mayor Carol Lehman, City of Gardner, Kansas

February 15, 2007
Senate Bill 316

Honorable Chairperson Brownlee and Committee Members:

The City of Gardner is a rapidly growing community in the southwestern Kansas City Metropolitan area. We have been working diligently for the last ten years to prepare for the growth we are experiencing. We have been completing comprehensive development plans for land and utilities, multi-year financial forecasting and budgeting, while carefully managing our overall debt burden. We have been working to control taxes and fees while simultaneously expanding our streets, parks, water, wastewater and electric infrastructure. Today, Gardner has almost doubled in population since 2000 and we have nearly 17,000 citizens. Because of this, our City has many significant capital projects which we have been funding to meet the ever growing demand for services caused by the influx of new residents.

Therefore, Gardner is limited in our capacity to assist with the funding of the KC Logistics Hub. We do not have any sources of funds outside of those that will be generated by the project to use for the project. We also know that there will be further increased demands for services with this development. Our City's funding sources are already committed to providing infrastructure and services to our current planning area. The KC Logistics Hub site was not in that planning area. However, the logistics hub site is adjacent to current City boundaries and, therefore, it makes sense for the City of Gardner to have control over the planning and development of this area.

The City of Gardner did not seek out this project; yet it's on our doorstep and it will affect my community greatly. Given our current growth demands, our City does not have the financial abilities to fund this project, nor should we be required to provide the funds on our own. It is clear this project will be a significant benefit to the State of Kansas and other governmental entities. In fact, we believe it will keep the State of Kansas economically viable for years to come. The project needs expensive public improvements, and in order for the City to be able to participate with any assistance, we need a new mechanism to capture future tax dollars off the site.

The citizens of Gardner have clearly told the governing body they want this development to pay its own way and I am committed to find as many options as possible to carry out the will of our constituents. Therefore, I respectfully request that you consider adding intermodal transportation areas as an additional eligibility within the TIF statutes to provide Gardner an added economic development tool to aid in making this project a success for everyone.

Senate Commerce Committee
February 15, 2007

Attachment 6

Sincerely,

Carol Lehman, Mayor
City of Gardner



TESTIMONY

to

**KANSAS SENATE
COMMERCE COMMITTEE**

Melissa Mundt, Assistant City Administrator, City of Gardner, Kansas

**Dorothea Riley, Bond Counsel
Kutak Rock LLP**

**February 15, 2007
Senate Bill 316**

Honorable Chairperson Brownlee and Committee Members:

The City of Gardner is currently working on a major economic development project that will provide a substantial benefit to the State of Kansas. The proposed BNSF Intermodal and Logistics Park, now known as KC Logistics Hub, is an approximately 800 plus acre development that will afford a major economic engine¹ to the State of Kansas. The KC Logistic Hub is projected to generate billions in revenue directly to the State of Kansas and other governmental entities and in excess of 13,000 new jobs over twenty years.

An intermodal facility is a place where transportation containers are moved between railcars and trucks to adjacent warehousing that stores goods for further distribution. Currently BNSF has a small intermodal facility located in Kansas City, Kansas. This location can no longer support the operations due to the ever increasing flow of consumer goods from Asia and the Pacific Rim. Land abutting Gardner has been selected for this project due to its prime geographic location between BNSF's main line from the Port of Los Angeles to Chicago and Interstate 35. The Kansas City area is a strategic location for distribution of goods to population centers up to 350 miles away, which includes places from Des Moines, IA to Oklahoma City, OK.

The City of Gardner is here today to request a change in the TIF legislation to provide financing options for the massive amounts of public infrastructure required to support this project. In addition to a necessary new interchange there are many miles of roadways that will need to be upgrade from gravel to roadway standards to support the projected 5,900 vehicular trips per day at the opening of the facility to 59,800 trips at build out.² In addition, there are several overpasses that will need to be constructed as well as improvements and extensions of utility services. Currently, the KC Logistics Hub property is in unincorporated Johnson County and, therefore, does not have City level services. The City of Gardner provides water, wastewater, and electric services within it its City limits and anticipates extension of services to the logistics hub. Cost for the roadway infrastructure and interchange alone is estimated between \$60-100

¹ Per CH2M Hill/Lockwood Green on behalf of BNSF and a separate study by Southwest Johnson County Economic Development Corporation. Completed in 2006.

² Per HDR Traffic Study on behalf of BNSF and assistance from the City of Gardner. Completed in 2006.

Senate Commerce Committee
February 15, 2007

Attachment 7-1

million. The City of Gardner cannot bare that burden and needs an additional financing tool to facilitate providing the necessary infrastructure funding to make the project a success for the State of Kansas and, as importantly, not unduly harm the residents and business that currently exist in Gardner.

The City of Gardner recommends changes to K.S.A. 12-1770a in the current TIF legislation to assist Gardner is using local TIF revenue to pay for a portion of the project. Specifically, the changes to K.S.A. 12-1770a in the current TIF legislation which Gardner is requesting consist of the following:

1. Adding "intermodal transportation area" as a new category to the types of eligible TIF areas.
2. Adding a definition of "intermodal transportation area" to mean an area of not less than 800 acres to be developed primarily to handle the transfer, storage and distribution of freight through railway and trucking operations.
3. Permitting redevelopment project costs for intermodal transportation areas to include the acquisition of land for, and the construction and installation of, publicly-owned infrastructure improvements which serve an intermodal transportation area but may be located outside of the TIF district.

These changes would permit Gardner to use the incremental increase in property taxes created by the development of the KC Logistics Hub to assist in paying for a portion of the massive public infrastructure requirements that are a result of this project.

KUTAK ROCK LLP

SUITE 500
1010 GRAND BOULEVARD
KANSAS CITY, MISSOURI 64106-2220

816-960-0090
FACSIMILE 816-960-0041

www.kutakrock.com

ATLANTA
CHICAGO
DENVER
DES MOINES
FAYETTEVILLE
IRVINE
LITTLE ROCK
LOS ANGELES
OKLAHOMA CITY
OMAHA
PASADENA
RICHMOND
SCOTTSDALE
WASHINGTON
WICHITA

February 15, 2007

Chairman and Members of
the Senate Commerce Committee
State Senate
Topeka, KS 66612

Re: Senate Bill No. 316

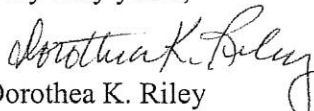
Ladies and Gentlemen:

As bond counsel to the cities of Lenexa and Wichita, we are recommending, on their behalf, an amendment to K.S.A. 12-1770a referenced in Senate Bill No. 316 to permit the use of tax increment revenue to pay the cost of multilevel parking facilities that are owned by, or leased to, developers (A copy of the proposed statutory change is attached). Current law *permits* the use of tax increment revenue to pay the cost of surface parking facilities owned by or leased to developers, *but restricts* the ability of cities to use tax increment financing for multilevel parking facilities unless the facilities are owned by the municipality.

These cities, along with others in Kansas, are encouraging developers to limit urban sprawl and provide concentrated centers for development to conserve resources and land and create neighborhoods of business and residential development. Large surface parking lots are inconsistent with this approach. The proposed amendment to the current tax increment statutes would provide cities with a better tool to encourage this type of development for the benefit of conservation of land as well as the promotion of economic development.

If we may be of any assistance to the committee on this matter, please let me know.

Very truly yours,


Dorothea K. Riley

Attachment

Senate Commerce Committee

February 15, 2005

Attachment

8-1

AN ACT concerning economic development, relating to tax increment financing; multilevel parking structures, amending K.S.A. 12-1770a and repealing the existing section.

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

Section 1. K.S.A. 2006 Supp. 12-1770a is hereby amended to read as follows: 12-1770a.

As used in this act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the content:

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

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

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

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

(A) A substantial number of deteriorated or deteriorating structures;

(B) predominance of defective or inadequate street layout;

- (C) unsanitary or unsafe conditions;
 - (D) deterioration of site improvements;
 - (E) tax or special assessment delinquency exceeding the fair market value of the real property;
 - (F) defective or unusual conditions of title including but not limited to cloudy or defective titles, multiple or unknown ownership interests to the property;
 - (G) improper subdivision or obsolete platting or land uses;
 - (H) the existence of conditions which endanger life or property by fire or other causes; or
 - (I) conditions which create economic obsolescence; or
- (2) has been identified by any state or federal environmental agency as being environmentally contaminated to an extent that requires a remedial investigation; feasibility study and remediation or other similar state or federal action; or
 - (3) a majority of the property is a 100-year floodplain area; or
 - (4) previously was found by resolution of the governing body to be a slum or a blighted area under K.S.A. 17-4742 *et seq.*, and amendments thereto.
- (d) "Conservation area" means any improved area comprising 15% or less of the land area within the corporate limits of a city in which 50% or more of the structures in the area have

an age of 35 years or more, which area is not yet blighted, but may become a blighted area due to the existence of a combination of two or more of the following factors:

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

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

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

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

(h) "Enterprise zone" means an area within a city that was designated as an enterprise zone prior to July 1, 1992, pursuant to K.S.A. 12-17,107 through 12-17,113, and amendments

thereto, prior to its repeal and the conservation, development or redevelopment of the area is necessary to promote the general and economic welfare of such city.

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

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

(k)(1) “Feasibility study” means:

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

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

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

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

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

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

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

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

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

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

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

(A) Visitation expectations;

(B) economic impact;

- (C) the unique quality of the project;
- (D) the ability of the project to gain sufficient market share to:
 - (i) Remain profitable past the term of repayment; and
 - (ii) maintain status as a significant factor for travel decisions;
- (E) integration and collaboration with other resources or businesses;
- (F) the quality of service and experience provided, as measured against national consumer standards for the specific target market;
- (G) project accountability, measured according to best industry practices; and
- (H) the expected return on state and local investment that the project is anticipated to produce.

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

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

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

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

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

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

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

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

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

- (3) site preparation including utility relocations;
- (4) sanitary and storm sewers and lift stations;
- (5) drainage conduits, channels, levees and river walk canal facilities;
- (6) street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
- (7) street light fixtures, connection and facilities;
- (8) underground gas, water, heating and electrical services and connections located within the public right-of-way;
- (9) sidewalks and pedestrian underpasses or overpasses;
- (10) drives and driveway approaches located within the public right-of-way;
- (11) water mains and extensions;
- (12) plazas and arcades;
- (13) parking facilities, *including multilevel parking structure*;
- (14) landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities; and
- (15) related expenses to redevelop and finance the redevelopment project, except that for a redevelopment project financed with special obligation bonds payable from the revenues described in subsections (a)(1)(D) and (a)(1)(G) of K.S.A. 12-1774, and amendments thereto, such expenses shall require prior approval by the secretary of commerce.

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

(1) Fees and commissions paid to real estate agents, financial advisors or any other consultants who represent the businesses considering locating in a redevelopment district;

(2) salaries for local government employees;

(3) moving expenses for employees of the businesses locating within the redevelopment district;

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

(5) lobbying costs; and

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

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

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

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

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

(v) “Secretary” means the secretary of commerce.

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

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

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

(z) “Special bond project” means a redevelopment project with:

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

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

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

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

(aa) “Marketing study” means a study conducted to examine the impact of the redevelopment project or special bond project upon similar businesses in the projected market area.

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

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

(dd) “Commence work” means the manifest commencement of actual operations on the development site, such as, erecting a building, excavating the ground to lay a foundation or a

basement or work of like description which a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed.

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

(ff) “Major multi-sport athletic complex” means an athletic complex that is utilized for the training of athletes, the practice of athletic teams, the playing of athletic games or the hosting of events. Such project may include playing fields, parking lots and other developments.

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

(hh) “Bioscience development area” means an area that:

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

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

(3) includes a bioscience facility.

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

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

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

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

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

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

(oo) “Board” means the board of directorsthe Kansas bioscience authority.

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

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

(rr) “Taxpayer” means a person, corporation, limited liability company, corporation, partnership, registered limited liability partnership, foundation, association, nonprofit entity, sole proprietorship, business trust, group or other entity that is subject to the Kansas income tax act, K.S.A. 79-3201 *et seq.*, and amendments thereto.

(ss) “Floodplain increment” means the increment determined pursuant to subsection (b) of K.S.A. 2006 Supp. 12-1771e, and amendments thereto.

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

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

and retail centers, signage and temporary hospitality facilities, but excluding hotels, motels, restaurants and retail facilities not directly related to or necessary to the operation of such facility.

Section 2. K.S.A. 12-1770a as amended by section 3 of Chapter 192 of the 2006 Session Laws of Kansas is hereby repealed.

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



8500 Santa Fe Drive
Overland Park, Kansas 66212
• Fax: 913-895-5003
www.opkansas.org

Testimony Before The
Senate Commerce Committee
Regarding STAR bonds and Tax-Increment Financing
Senate Bill 316
Submitted by Erik Sartorius

February 15, 2007

The City of Overland Park appreciates the opportunity to appear before the committee and present testimony supporting reauthorization of STAR bonds and the effort to separate statutes governing STAR bonds and tax-increment financing (TIF).

As this committee well knows, STAR bonds are an economic tool that can help communities bring to fruition projects that could not be accomplished without the partnership of the state. Overland Park has explored potential projects involving STAR bonds, but to date has not completed any projects.

Over the last several years, the legislature has closely scrutinized the concept of STAR bonds, and has refined the law to limit the use of STAR bonds. Potential projects now also are subjected to increased analysis as to their feasibility and effect on surrounding communities.

The City asks the legislature to proceed cautiously as it reviews the STAR bonds statute and considers possible changes. The statute has been altered repeatedly, and the frequent changes present a challenge to cities, developers, and state agencies as to how the law would be applied to potential projects.

Splitting the STAR bonds statute from laws governing tax-increment financing is a laudable effort. Adding clarity to both of these economic development tools should make their use easier and more straightforward.

One particular area in need of clarification in the tax-increment financing law has to do with parking facilities. We understand the City of Lenexa will be offering an amendment clarifying that "parking facilities" would also include "multilevel parking structures." We are supportive of this amendment, and as other amendments are proposed for STAR bonds and TIF, the City may weigh in on those proposals, as well.

We look forward to working with the committee as various amendments are considered for Senate Bill 316. A proper balance between oversight and flexibility for communities utilizing STAR bonds should be a goal for the legislature and cities alike.

Senate Commerce Committee
February 15, 2007

10

Testimony
Kansas Senate
Commerce Committee

February 15, 2007

SB316 (Proponent)

*Amendment to TIF Statute regarding expanded
definition of Parking Facilities to include Multi-Level
Parking Structure as a reimbursable TIF cost.*

Mike Scanlon
City Administrator
City of Mission, Kansas

Senate Commerce Committee
February 15, 2007
Attachment 10-1

On behalf of Mayor McConwell and the City Council of Mission, Kansas I want to thank you for the opportunity to testify this morning in support of Senate Bill 316. Specifically, we're in support of a proposed amendment being recommended that would broaden the definition of allowable TIF reimbursable costs to include *multi-level parking structures*. It's just three words.

Why are these three words important? It's important because on January 29th the Attorney General's Office issued an Opinion that stated that parking facilities while a reimbursable expense did not include parking structures and specifically did not include privately owned parking structures.

January 29, 2007

ATTORNEY GENERAL OPINION NO. 2007-5

Excerpt from:

Question IV Because the Act specifically allows for the financing of 'parking facilities' can TIF/STAR Bond proceeds be used to finance multi-story parking decks to be owned [by] or leased to a developer?"

You correctly note that the definition of "redevelopment project costs" includes costs incurred for "parking facilities," which would appear to encompass a multi-story parking deck. However, the definition also excludes costs incurred in connection with the construction of buildings "or other structures," which would also appear to encompass a multi-story

parking deck, to be owned by or leased to a developer other than a developer of an auto race track facility.

In our opinion, as noted above, costs incurred for parking facilities such as a multi-story parking deck are considered redevelopment project costs that may be paid for with the proceeds of TIF/STAR bonds, but not if those parking facilities are to be owned by or leased to the developer. Because a multi-story parking deck is clearly a structure, the proceeds from bonds issued pursuant to the TIF Act may not be used to pay for costs incurred in building such a facility if it is to be owned by or leased to the developer.⁽⁶³⁾

Why are these three words important to Mission, Kansas?

As some of the Senators on this committee are aware the City of Mission spent the 2005 and 2006 Legislative Sessions working to rewrite portions of the current TIF Statute to allow the Statute to include 100 year floodplains. Those statutory changes along with more than \$10,000,000 in financial assistance from the Federal Government and Johnson County Kansas is allowing us to begin an almost \$24,000,000 flood control project on Rock Creek. This flood control project will remove over 112 commercial properties and almost 75 acres of our downtown from the 100 year floodplain. The bulk of that \$24,000,000 or (almost \$14,000,000) are pledged resources from the City of Mission, KS.

Those monies that are being pledged by the City of Mission are a direct result of the work of the Kansas Legislature in 2005 and 2006.

All of this work is threatened to be undone by the most recent Attorney General's Opinion. A key to fixing our floodplain is the ability to both fix the floodplain and redevelop the area simultaneously. Redevelopment keys our ability to pay for flood control improvements. Without redevelopment we can't generate enough economic activity to raise the \$14,000,000 that we need to fix the floodplain.

So why is parking important to a floodplain? Parking is important because we have landed a \$375,000,000 redevelopment project in the heart of the floodplain, called the Gateway Project. That project will yield sales tax that will help the City pay for the flood control improvements. But that redevelopment project, in particular the density of this project cannot be achieved without building private parking structures that are currently in excess of \$75,000,000. Without the Parking Structures being TIF eligible the Gateway Project becomes difficult if not impossible financially to build. And without a large redevelopment project we as a City cannot generate

sufficient sales tax to pay for the flood control improvements.

We as a Community are not asking for money we're simply asking for three words to be added to the current State TIF Statutes "multi-level parking structures."

On behalf of my Governing Body and our citizens I want to thank the Kansas Legislature and in particular this Committee who has worked on TIF language to help us in the past....without you and your work we couldn't have begun the process of ~~fix~~ing our downtown floodplain.