

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:30 A.M. on March 20, 2008 in Room 123-S of the Capitol.

All members were present except:

Jim Barone- excused

Committee staff present:

Jennifer Thierer, Kansas Legislative Research Department

Jason Long, Revisor of Statutes

Jackie Lunn, Committee Assistant

Conferees appearing before the committee:

Secretary David Kerr, Department of Commerce

Tracy Taylor, KTEC

Others attending:

See attached list.

To read testimony submitted by conferees go to

<http://skyways.lib.ks.us/government/KansasSenateCommerceCommittee>.

HB 2315--Home inspectors competency and financial responsibility

Chairperson Brownlee called the Committee's attention to **HB 2315** and asked the Committee's wishes on putting the home inspectors under the Board of Technical Professionals instead of creating a new board. The Committee agreed and the discussion continued regarding the two amendments which were offered during the hearing one being that a high school education be required and Chairperson Brownlee stated she felt in the amendment there was a grandfathered on their experience. The amount of liability insurance required was also discussed. Chairperson Brownlee asked that staff to do a balloon with all the amendments discussed and they would finalize it on Tuesday morning.

Chairperson Brownlee introduced Tracy Taylor, KTEC to give an update on the Kansas Angel Tax Credit Program. Mr. Taylor presented written copy (Attachment 1) which can be found in its entirety on the link shown above.

A short discussion followed and it was noted that dooph.com, which appears on the 2007 tax credits, is a website to get coupons.

Upon the conclusion of Mr. Taylor's update, Chairperson Brownlee introduced Secretary Kerr, Department of Commerce, to give an overview of the 2007 STAR bond projects and an update of prior year STAR bond applications and turned the Chair over to Senator Jordan. Secretary Kerr presented written copy (Attachment 2) which can be found in its entirety on the link shown above.

Upon the conclusion of Secretary Kerr's overview and update, there was discussion regarding several of the existing STAR bond projects. Senator Reitz presented questions from Dr. Darling, retired professor, K-State University. One question was "can the State afford more Star Bonds". Secretary Kerr stated yes the state can afford more STAR bond projects. Secretary Kerr stated if the project is able to pay the STAR bonds back the project is considered successful. He stated there is only one project that is not generating enough money to pay the bonds.

Chairperson Jordan called the Committee's attention to the handouts from the Department of Commerce listing Fund descriptions relating to the Post Audit on Economic Development in the state of Kansas (Attachment 3) and adjourned the meeting at 9:30 a.m. with the next meeting being scheduled for March 25, 2008 at 8:30 a.m. in room 123 S.



Kansas Angel Tax Credit Program Senate Commerce Committee

March 20, 2008



2-1

The Kansas Angel Investor Tax Credit program is part of the **Kansas Economic Growth Act** and is administered by Kansas Technology Enterprise Corporation (KTEC).

The purpose of the Kansas Angel Investor Tax Credit Act is to facilitate the availability of equity investment in businesses in the early stages of commercial development and to assist in the creation and expansion of Kansas businesses, which are job and wealth creating enterprises, by granting tax credits against Kansas income tax liability of investors investing in these businesses. The Kansas Angel Investor Tax Credit Act shall be administered with the primary goal of encouraging individuals to provide seed-capital financing for emerging, Kansas businesses engaged in the development, implementation and commercialization of innovative technologies, products and services.

Kansas Angel Investor Tax Act (the "Act"), as codified at K.S.A. 74-8131 – K.S.A. 74-8137, effective January 1, 2005.



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Angel Tax Credit Changes July 2007

House Bill 2004 has made the following changes to the Angel Tax Credit – effective 7/1/07
The following is a highlight of some of the changes. To view the revised statute, please visit <http://www.kslegislature.org/legsrv-legisportal/index.do> and select “bills” from the left hand navigation.

Program:

Total tax credits available - \$6MM in 2008 through 2015

Kansas Businesses:

Eligibility: Bioscience companies are eligible if they have been in business less than 10 years.
Other high technology businesses are eligible if they have been in business less than 5 years.

Investors:

Cap: \$50,000 tax credits per qualified Kansas business per individual per year
\$250,000 tax credits in any calendar year

Angel Tax Credit Highlights

New (as of 7/1/07)

Available Credits

\$6MM cap each year to 2016

Eligible Companies:

Bio < 10yrs

IT/Other High Tech < 5yrs

<\$5MM in revenue

Investment flow thru entities allowed

tax credits flow thru to individuals

Can Sell/Transfer if no KS taxes within last 3 years

Individual annual cap

\$50K per investment

\$250K in tax credits allowed per year

(no limit on number of transactions)

Kansas Angel Tax Credit Qualification

74-8134

A qualified Kansas Business must meet all of the following:

- 1 – Annual revenue < \$5MM
- 2 – Business in operation < 10 years for Bioscience, <5 years all other
- 3 – Engaged in appropriate line of business (eg: not services, construction, banking, etc)

74-8135

KTEC will determine if a business meets the following:

- 1 – Reasonable chance of success
- 2 – Ability to create measurable employment
- 3 – Innovative products/services
- 4 – Owners & founders are committed to substantial time & money
- 5 – Securities are qualified
- 6 – Commitments have been made for adequate reporting

74-8136

KTEC shall determine which businesses provide the greatest economic benefit to the State

- 1 – KTEC may issue whole or in-part credits
- 2 – KTEC may consider numerous factors, including, but not limited to:
 - quality & experience of management team, size of the estimated market opportunity, the risk from current or future competition, the ability to defend intellectual property, the quality and utility of the business model and the quality and reasonableness of the financial projections for the business.



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2005 Tax Credits

Chemidex	120,000.00
CritiTech	94,983.72
Earcheck	75,000.00
HeadsUp	137,500.00
HiPer Technology	200,000.00
ImmunoGenetix	25,000.00
IRR	200,000.00
Kozoru	249,998.00
PeakVision	177,500.00
Phonetics	579,059.50
Proteon	63,459.00
VasoGenix	10,000.00

Total Credits Used 1,932,500.22

Total Tax Credits Available 2,000,000.00

Carried Forward 67,499.78

2006 Tax Credits

Proteon	87,500.00
Cadstone	25,000.00
ImmunoGenetix	125,000.00
Heartland	190,000.00
Kozoru	115,519.63
CritiTech	25,000.00
HeadsUp	62,500.00
Reflexian	25,000.00
Innovia	348,750.00
TVAX	72,500.00
Felton International	112,500.00
Inno-Labs	70,000.00
Nuvio	125,000.00
Store Financial	100,000.00
Enertech	
LightWild	129,563.00
Inverseon	15,000.00
PeakVision	205,000.00
Aero Innovative	-
CUBE	-
Verenta	-

Total Credits Used 1,833,832.63

Total Tax Credits Available 2,067,499.78

Carried Forward 233,667.15

2007 Tax Credits

Immunogenetix	75,000
Cadstone	25,000
Nuvio	75,000
Priorities Matter	-
Community Wireless	-
Crititech	377,500
Cube	-
Matrix	246,250
Innovia	388,500
TDP/Save my Coupons	425,000
IRR	100,000
Osteogenex	52,500
Rush Tracking	321,052
Edenspace	-
Sunflower Wind	200,000
Horizon Analog	275,000
Pulse Needlefree (Fleton)	141,900
Dooph.com	50,000
ReNew Coating	-
Lead Horse	150,000
MedAccuracy	-
Sip Vine	125,000
Total Credits Used	<u>3,027,701.80</u>

Total Tax Credits Available 4,233,667.15

Carried Forward 1,205,965.35



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2007 ANGEL TAX CREDIT ANNUAL REPORT

	2005	2006	2007	Total (from inception)
Total Angel Tax Credits Issued	\$ 1,932,500.00	\$ 1,833,832.63	\$ 2,877,701.36	\$ 6,644,033.99
Capital Infusion	\$ 9,245,753.00	\$ 27,656,188.00	\$ 44,486,719.00	\$ 81,388,660.00
Total Annual Payroll	\$ 5,814,987.00	\$ 7,695,310.00	\$ 15,559,743.00	\$ 29,070,040.00
Total Revenue	\$ 5,804,987.00	\$ 17,864,942.00	\$ 38,347,350.00	\$ 62,017,279.00
Jobs				
New Jobs	37	33	55	125
Preserved Jobs	60	9	19	88
Total	97	42	74	213
Estimated Effect on the Kansas Economy (factor of 2.5)	243	105	185	533



2007 STAR Bonds Overview

Testimony presented by David D. Kerr, Secretary
Kansas Department of Commerce
March 2008

Table of Contents

- I. Overview of 2007 Star bond projects
- II. Update on prior year STAR bond application
- III. Department principles on use of STAR bonds
- IV. Sample STAR bond project

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Senate Commerce Committee

March 20, 2008

Attachment 2-1

Part I: Overview of 2007 projects

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2007 Overview

- **Projects approved:**

1. Wichita Waterwalk (Wichita)
2. Flint Hills Discovery Center (Manhattan)

- **Projects not approved:**

1. Kansas Landmark Tower (Edwardsville)
2. Olathe Gateway (Olathe)

- **Pending projects:**

1. Mission Gateway (Mission)
2. Junction City Marketplace (Junction City)

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Wichita Waterwalk

- **Status:** Construction ongoing, nearly complete
- **STAR bonds approved:** \$14.7 million (Oct. 2007)
- **Summary:**
 - \$156 million redevelopment of public space along the Arkansas River and the Keeper of the Plains platform
 - Project includes an entertainment plaza; retail space; amphitheatre promenade; and interactive water show.
- **Economic impact:**
 - 1,250 full-time jobs worth \$25.6 million in payroll
 - \$78 million in projected retail sales for 2010
 - Nearly 1 million new visitors annually to Wichita

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Flint Hills Discovery Center

- **Status:** Construction ongoing
- **STAR bonds approved:** \$50 million (Dec. 2006)
- **Summary:**
 - \$108 million project
 - 30,000 square-foot Discovery Center/Museum; hotel and conference center; and 40,000 square-foot theater
- **Economic Impact:**
 - \$160 million in capital investment
 - 1,200 construction jobs worth \$27 million in payroll
 - 1,000 full-time permanent jobs worth \$21 million in payroll

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Kansas Landmark Tower

- **Status:** Authorization withdrawn (Sept. 2007)
- **STAR bonds requested:** \$72 million
- **Summary:**
 - Commerce approved \$72 million in STAR bonds for Edwardsville for a \$240 million project in March 2007, contingent upon the City and Developer meeting specific criteria and submitting an acceptable financing proposal within 90 days.
 - City did not submit an adequate proposal within 90 days; Commerce granted a 60-day extension.
 - STAR bond approval was rescinded in September 2007 after the City and Developer again failed to meet specified financing criteria.

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Olathe Gateway

- **Status:** District authorization withdrawn (July 2007)
- **STAR bonds requested:** \$165 million (estimated)
- **Summary:**
 - Commerce approved Olathe's request to establish a STAR Bond Project District in July 2007 and gave the City 90 days to submit a project plan.
 - The Developer did not provide the City with a project plan within 90 days; The City was granted a 60-day extension.
 - The Developer again failed to submit a project plan to the City; STAR Bonds District authorization was rescinded in January 2008.

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Mission Gateway

- **Status:** STAR Bond District approved (Oct. 2007)
- **STAR bonds requested:** \$96 million (estimated)
- **Summary:**
 - Commerce has approved Mission's request to create a STAR Bond Project District
 - \$320 million project would include a 70,000 square-foot aquarium; retail and entertainment district; housing; office space; and amphitheater.

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Junction City Marketplace

- **Status:** STAR Bond District approved (Dec. 2007)
- **STAR bonds requested:** TBD
- **Summary:**
 - Commerce has approved Junction City's request to create a STAR Bond Project District
 - \$320 million project would include 115 acres of outdoor athletic fields; a 500,000 square-foot retail complex; entertainment and dining district; military museum; and farmer's market.

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Part II: Update on previous STAR bond projects

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Schlitterbahn Vacation Village

- **Status:** Set to open spring 2009
- **STAR bonds requested:** \$225 million
- **Summary:**
 - Commerce approved \$225 million in STAR bonds for the Unified Government of Wyandotte County in 2005
 - \$700 million major water park resort includes a Vacation Village and retail outlets.

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Part III: Department principles on using STAR bonds

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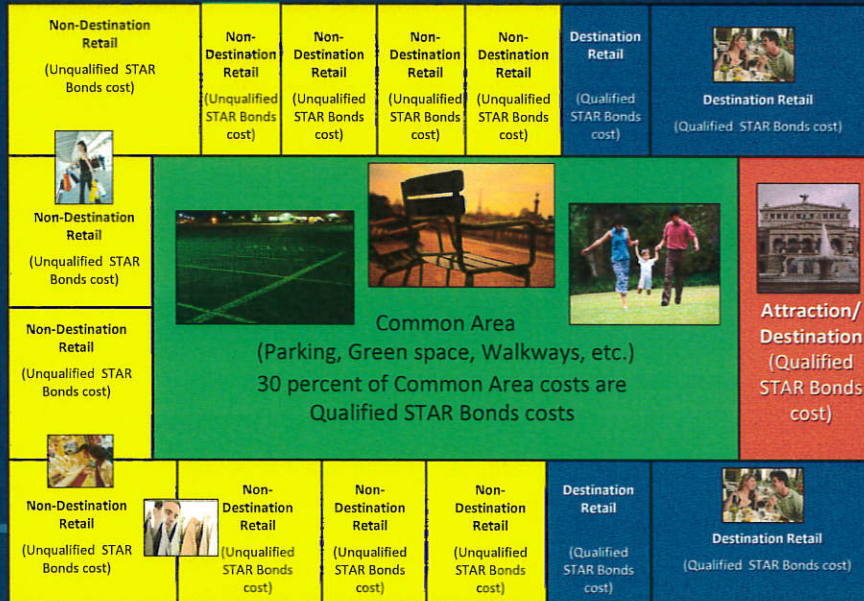
Guiding Principles

- State should be a minority partner in STAR bond projects.
- State should not subsidize regular retail to compete with existing retail.
- Project funding should be driven by the attraction, not the retail components.
- Funding for common areas (parking, shared space, etc.) should be proportionate to the percentage of the destination's attraction and retail components.
- Major outstanding issue: Definition of "destination retail" versus "non-destination retail."

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Part IV: Sample STAR bond project

STAR Bonds Project Cost Model Diagram



Attraction/Destination & Destination Retail = 30% of total retail project; non-destination retail = 70% of total retail project

STAR Bonds Project Cost Model

Assumptions:

- Attraction/Destination + Destination Retail = 30 percent of total retail project
- Non-Destination Retail = 70 percent of total project retail

Qualified STAR Bonds Costs (Land & Infrastructure)

	<u>Total Costs</u>	<u>Qualified STAR Bonds Costs</u>
Attraction and Retail	\$100 M	\$30 M
Common Areas	\$100 M	\$30 M
Total STAR Bonds	\$200 M	\$60 M
Museum/Multi-Sport Facilities		
Facility	\$50 M	\$50 M
Total STAR Bonds	\$250 M	\$110 M

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KANSAS
DEPARTMENT OF COMMERCE

For more information, contact:
David D. Kerr, Secretary
Kansas Department of Commerce

www.kansascommerce.com

Kansas Department of Commerce
Economic Development Audit
Fund Descriptions

Fund	Fund Description
Affordable Airfares	SGF money transferred to the Regional Economic Area Partnership (REAP) to provide more air flight options, more competition for air travel and affordable air fares for Kansas, including a regional airport in western Kansas.
Association Assistance Plan	No interest loans used for financing the initial costs associated with the forming and organizing of small business associations to assist small business members of the association to obtain access to quality and affordable health care plans. (SB 11, 2007)
Athletic Fee Fund	Funds used to cover expenses of the Kansas Athletic Commission.
Community Development Block Grant	Cities and counties apply for these funds. Programs administered include: economic development, water/sewer grants, community facilities, urgent need, housing and KAN-STEP.
Community Development Block Grant Loan	Awarded to economic development and job creation projects in eligible Kansas communities.
Conference Registration	Funds collected from private sources for Commerce-related conferences and events.
Conversion of Equipment & Materials	Funds collected from the sale of Dept of Commerce used equipment and machinery.
Disability Navigator Program	Federal funds from the US Dept of Labor that connects people with disabilities to services and work supports to assist them in meeting their career objectives.
Economic Development Initiative Fund	To promote the retention and expansion of business and industry in Kansas.
Flood Mitigation	Federal funds awarded to Commerce from US Housing & Urban Development to assist with the 1993 floods.
General Fees	Misc. fees collected, including application fees & costs of issuance of Industrial Revenue Bonds.
Goodyear	Bond revenue transfer fund.
Goodyear Principle & Interest	Bond repayment fund.
Greensburg National Emergency Grant	Federal funds awarded to Commerce from US Dept of Labor to assist with Greensburg.
Greyhound Tourism	Grants provided for the promotion of Greyhound racing in Kansas.
IMPACT Program Repayment	SGF withholding tax funds that pay debt service on bonds for training and economic incentives projects.
IMPACT Program Services	Bond funds that finance company training and economic incentives projects and related administrative costs. For FY 03-05, includes bond proceeds of \$24,272,127.
Indirect Costs	Federal funds available for use of State administrative support services of Federal programs.

Senate Commerce Committee
March 20, 2008

Attachment 3-1

Kansas Department of Commerce
Economic Development Audit
Fund Descriptions

Kansas Commission on Disability Concerns	Fund provides limited grants to groups associated with disability concerns.
Kansas Economic Opportunity Initiatives Fund	EDIF-funded program that is used to assist companies with expansion and retention projects.
Kansas Existing Industry Expansion Program	EDIF-funded program that is used to assist companies with expansion and retention projects.
Kansas Export Loan Guarantee	Fund is used to provide guarantees against commercial pre-export and post-export credit risks.
Kansas Partnership Fund	Revolving loan fund used to help communities offset infrastructure costs associated with expansion and retention projects.
KS Community Entrepreneurship	Funds are used for awards to regional and community organizations that provide seed capital to qualified entrepreneurs, with an emphasis on those located in distressed and rural communities.
KS Venture Capital Company	Income tax credit program for investors.
*Employment Services	Department of Labor program in FY 03-04. A federally-funded labor exchange system that matches job seekers with employers who have job openings through workforce centers and internet connections.
*Americas Job Link Alliance	Department of Labor program in FY 03-04. An association of state workforce agencies that develops one-stop data collection and reporting systems to manage workforce programs (e.g., WIA, Employment Services, etc.).
*Registered Apprenticeship	Department of Labor program in FY 03-04. An industry-driven employment and training system that prepares individuals for occupations requiring a broad range of high-level skills through on-the-job training.
Less Debt Service	Reduction of Debt Service Costs such as bond payments for State buildings.
Less KCDC	Amount LPA removed from Commerce expenses for Kansas Commission on Disability Concerns
Less SBDC	Amount LPA removed from Commerce expenses for Small Business Development Corporations.
Mainstreet	Provides Incentives Without Walls (IWW) grants in designated Main Street communities to create/retain jobs in and to revitalize downtown commercial businesses.
Market Development	Loan funds for the development or formulation of new food/feed or nonfood/nonfeed products, the creation of new technologies to expand the uses of Kansas agricultural products and an increase in producer investment and ownership of value-added businesses.
Other Federal Grants	Examples include: Senior Community Services Employment Program, AJLA federal funds, and Work Opportunity Tax Credits.

Kansas Department of Commerce
Economic Development Audit
Fund Descriptions

Publication & Other Sales	Funds are used to pay for the Kansas! magazine, Kansas Travel Guide, other publications created by Commerce and sales generated from the Travel Information Center.
Re-employment Services	Federally-funded early intervention services for Unemployment Insurance claimants designed to return them to work before their benefits are exhausted.
Reimbursement & Recovery	Funds recouped by Commerce for expenses such as rents on state owned buildings and cost sharing agreements.
School To Work	Programs to assist at-risk youth to complete school and to provide them with remedial education, career exploration and work experience opportunities. This was a USDOL program operated by the states, but is no longer funded.
SE KS Flood	Federal funds provided by US Dept of Labor for the support of the SE Kansas Flood of 2007.
Small Employer Cafeteria	Provide grants to small employers who do not already offer cafeteria plans, for the purpose of establishing Section 125 plans (SB 11, 2007).
State General Fund	State General Funds used to support Kansas Commission on Disability Concerns.
Trade Adjustment Act	Federal funds provides skills training to workers who: 1) have been laid off due to a company's production moving to a foreign country or 2) whose jobs have been directly influenced by sales of imports from foreign countries.
Trademark	Grants provided to Kansas companies for the promotion and sale of Kansas-based products.
Veterans Programs	Federal funds from the US Dept of Labor for identification, tracking, case management services and intensive unsubsidized job development for the veteran community.
Wagner Peyser	Federal funds from the US Dept of Labor that helps employers find qualified employees and job seekers find employment.
Wheat Harvest Non-Fed	Provides employment services to migrant and seasonal farm workers.
Workforce Investment Act	Federal USDOL funds. The federal Workforce investment Act of 1998 was intended to streamline access to services, reduce duplication and encourage coordination among workforce programs. WIA established the network of local One Stop Centers in each state.
Workforce Investment Act Dislocated Worker	Federal USDOL funds. Program to provide employment and training services to individuals who have been laid off or terminated and are not expected to return to that occupation or industry. The services are designed to help the individuals obtain skilled employment through training in high-demand, high-growth occupations.
Workforce Investment Act Set-Aside	Federal USDOL funds. State-level funds used to carry out the state's oversight responsibilities and provide for innovative ways to coordinate programs of various workforce agencies.

Kansas Department of Commerce
Economic Development Audit
Fund Descriptions

Workforce Investment Act Youth	Federal USDOL funds. Programs that serve eligible low-income youth (14-21) who have multiple barriers to employment. Prepares youth for employment and/or post-secondary education through strong linkages between academic and occupational learning and effective connections to employers.
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