

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairman David Wysong at 8:30 a.m. on February 11, 2009, in Room 545-N of the Capitol.

All members where present accept:  
Senator Jay Emler - excused

Committee staff present:  
Ms. Margaret Cianciarulo, Committee Assistant  
Mr. Norm Furse, Office of the Revisor of Statutes  
Mr. Ken Wilke, Office of the Revisor of Statutes  
Mr. Reed Holwegner, Kansas Legislative Research Department  
Mr. Julian Efird, Kansas Legislative Research Department

Conferees appearing before the Committee:  
Mr. Gary Anderson, Attorney, Gilmore & Bell Law Firm, Kansas City, Missouri  
Mr. John Petersen, Attorney, Polsinelli Shughart PC Law Firm  
on behalf of The Community Improvement Coalition  
Mr. Karl Capps, MG Management  
Ms. Christy Caldwell, Vice President, Government Relations,  
Greater Topeka Chamber of Commerce  
Mr. Dave Holtwick, Vice President of Government Affairs, Overland Park Chamber of Commerce  
Mr. Lavern Squier, Senior Vice President, Overland Park Chamber of Commerce,  
Economic Development Council representing Kansas Economic Development Alliance  
Mr. Luke Bell, Vice President of Government Affairs, Kansas Association of REALTORS®  
Mr. Richard Cram, Director of Policy & Research, Kansas Department of Revenue

Others attending:  
Please see an attached list.

### Minutes for Approval

The minutes of February 2, 3, 4, and five were distributed on February 10, 2009 for the Committee's approval. If no changes are received by the end of the day on Friday, February 13, 2009, they will stand as approved.

### Hearing on SB138 - An act concerning tax increment financing, regarding bond revenue sources

Chairman Wysong opened the meeting by announcing to the Committee that they would be hearing two bills, the first being **SB138** and called upon Mr. Ken Wilke, Office of the Revisor of Statutes, to explain the bill. Highlights included:

- New language introduced on page 4 in Sub paragraphs © through (K) inclusive that allows for activity described to occur either inside or outside the redevelopment district as determined by the city. (Mr. Wilke stated this is a policy question for the Committee.)
- At the bottom of page 7, line 42 referencing a "K.S.A. 2007 Supp" should read "K.S.A. 2008 Supp." This technical change also appears in several areas throughout the bill including page 12, line 29, 33 & 38, page 13, lines 28 & 32, and page 15, line 31.
- Referring to page 16, line nine and 10 inserts additional reference to "pursuant to *either* subsection s (a)(1)(E) or the subsection (a)(1)(F)" stating this is a technical change relating back to the 7-1-05 date, so there is no real effect since nothing started until 2007.
- Referring to page 17 lines 19 & 20, a bond project was added in a "bond project" as a technical clean up to make sure the star bond projects were properly described.

## CONTINUATION SHEET

Minutes of the Senate Commerce Committee at 8:30 a.m. on February 11, 2009, in Room 545-N of the Capitol.

Page 2

Chairman Wysong asked Mr. Wilke to explain Section 2 on pages eight and nine. Basically, Mr. Wilke stated that on page 8, line 43 “from a pledge of a *portion or*” in so far how much the pledge of the revenue must be similar on page 9 line 31.

As there were no other questions for Mr. Wilke, the Chair called upon the only conferee to testify, Mr. Gary Anderson, Attorney, Gilmore & Bell Law Firm, Kansas City, Missouri, who stated the changes Mr. Wilke had just described are generally technical in nature, with the most controversial being the definition, but will be very helpful for the use of tax increment financing as an effective economic development tool in Kansas.

A copy of Mr. Anderson’s testimony is (Attachment 1) attached and incorporated into the Minutes as referenced.

The Chair thanked Mr. Anderson and asked for questions or comments from the Committee which came from Senators Lynn and Reitz including what are the parameters around this extension of this definition and bring us up to date on the TIF projects because projects in Manhattan require permission from the school board as well as the county to deal with these issues and nothing has been mentioned so far in testimony that these TIF projects do not need to be passed by these other people that deal with tax abatement?

Before closing the hearing, the Chair stated he planned to work the bill on Friday, February 13, 2009 and believes, after researching with the Revisors, that the technical changes Mr. Wilke brought up regarding the dates and Mr. Anderson’s testimony regarding pages 15, 16, and 17 are all technical clean ups. He suggests the Committee look into them but not concern themselves with these, but, since there is some discussion regarding page 4, lines 13 through 34, he does suggest the Committee study this before they meet on Friday. As there was no further discussion, he closed the hearing on **SB138**.

### **Hearing on SB119 - An act enacting the community improvement district act**

Chairman Wysong announced the next order of business would be a hearing on **SB119** and called on Mr. Norm Furse, Office of the Revisor of Statutes, to explain the bill. Highlights of this new bill included:

Sec. 2 - Definitions such as bonds, municipalities governing body (city or county) pay-as-you-go financing & projects, are included in a long list of definitions found on pages one through three including transit facilities, railroads, music, new, etc.

Sec. 3 - The first of the two triggers of the act is a petition signed by all the owners of the land within a proposed district asking a municipality to modify or create a district. This section sets out procedures for the petition and provides the governing body may proceed without notice or hearing. (The creation of the district is for financing the project.)

Sec. 4 - The second trigger states that upon receipt of a petition signed by owners of more than 50 percent of the land area within the proposed district governing body may establish the district. The petition may ask for financing in whole or in part from a community improvement district sales tax (Sec.6) or issuance of full faith and credit bonds (Sec.11) Currently full faith and full faith and credit tax improvement bonds are in statutes. Notice and public hearings are required under this trigger.

Sec. 5 - Authorizes the governing body to levy and collect special assessments on property in the district to pay in whole or in part for the project.

Sec. 6 - Limitations on aggregate amounts of retailers sales tax in K.S.A. 12-187 through 12-197 does not apply to community improvement district sales tax.

Sec. 7 - No suit to set aside the assessments or question the validity of the proceeding for creation of the district allowed after 30 days from publication of the ordinance or resolution creating the district or 30 -days after resolution or ordinance declaring intent to impose a community improvement district sales tax.

CONTINUATION SHEET

Minutes of the Senate Commerce Committee at 8:30 a.m. on February 11, 2009, in Room 545-N of the Capitol.

Page 3

Sec. 8 - Sets out sources for paying for the project.

Sec. 9 - Provides for a separate fund to be created for each district.

Sec.10 - Authorizes the issuance of special obligation bonds to pay in whole or part of the costs of the project & shall not be general obligation bonds. Provisions of 10-106 requiring public sale of bonds do not apply to those bonds. Those bonds' incomes or interest is exempt from all state taxes except the inheritance tax. (Not subject to the statutory limitations on bonded indebtedness.)

Sec.11 - Full faith and credit bonds are authorized by this section to finance a project. K.S.A.10-106, requiring public sale of bonds shall not apply to bonds issued under this section. All bonds, pursuant to this section and all income or interest therefrom, are exempt from all state taxes except inheritance taxes. The amount of full faith and credit bonds exceeding 3 percent of the assessed valuation of the municipality shall be within the bonded debt limit applicable to such municipality. Protest petitions are allowed within 60 days following the date of the public hearing described under sec.4. Failure of voters to approve full faith & credit bonds shall not prevent a municipality from issuing special obligation bonds.

Sec.12 - Is the statute book.

He concluded by offering what does not apply including:

- Provisions of 10-106 requiring public sale of bonds as shown in Sec.10 (a) special obligation bonds and Sec.11(b) ff & c bonds.
- Bonds issued not subject to statutory limitation on bonded indebtedness of a municipality as shown in Sec.10 (e) special obligation bonds.
- Municipality not required to refund any prepayments of assessments as shown in Sec. 6 (a).
- Notwithstanding limitations on the aggregate amount of sales tax any municipality may impose a community improvement district sales tax as shown in Sec. 6 (a)

The Chair thanked Mr. Furse and asked the Committee for questions which came from Senators Reitz and Faust-Goudeau including

1. In reference to Sec. 7 regarding publication, will this be publicized in the newspaper or on a web page?
2. And, on page 8, Sec.9, line 37, can you elaborate more regarding the pay issue?

The Chair then called on the first of six proponents, Mr. John Petersen, Attorney, Polsinelli Shughart PC Law Firm, on behalf of The Community Improvement Coalition who stated that they had the pleasure of creating the initial drafts of this legislation and offered a broad overview of A Community Improvement District or CID's key provisions including:

- it will allow new revenue sources to be established within the District for purpose of paying certain development costs incurred within the District.
- it will not divert any sales tax or property taxes away from taxing jurisdiction unlike Tax Increment Financing or STAR Bond Financing
- mirroring the Transportation Development District Act, the CID legislation will allow for the imposition of an additional sales tax (of up to 2%) and/or special assessment within the District (collectively "CID Revenues")
- it is an additional financing tool for existing and new real estate projects.

CONTINUATION SHEET

Minutes of the Senate Commerce Committee at 8:30 a.m. on February 11, 2009, in Room 545-N of the Capitol.

Page 4

- it may be used to finance land acquisition and horizontal development costs.
- a municipality may issue special or general obligation bonds to finance CID Projects.

A copy of Mr. Petersen's testimony is (Attachment 2) attached and incorporated into the Minutes as referenced.

The Chair asked Mr. Petersen to give the Committee an illustration of how this would work. Senators Lynn and Reitz followed with questions including what happens if sales taxes are not what is expected and what is the liability on the part of the city or the district? If 100 percent of the people take on this project, it is a go? Or, what if only 50 percent or less of the people take on the project, how do they deal with this issue?

The second proponent conferee called upon was Mr. Karl Capps, MD Management, who stated that this type of economic development tool has been available to a number of states for several years and he has been involved in a number of CID's in Missouri. He went on to say the bill allows a City to tailor incentives based on the type of project, the location, and the goals of the local government that would be the most effective for their particular situation.

A copy of his testimony is (Attachment 3) attached and incorporated into the Minutes as referenced.

Next to testify was Ms. Christy Caldwell, Vice President Government Relations, Greater Topeka Chamber of Commerce who stated that the bill would create an opportunity for a municipality and a developer to coordinate developments within a defined district utilizing new revenues generated within the district (New revenues = special assessments on property owners within a district, a special sales tax, and/or full faith and credit bonds or "pay as you go.")

A copy of Ms. Caldwell's testimony is (Attachment 4) attached and incorporated into the Minutes as referenced.

The fifth proponent conferee recognized was Mr. Dave Holtwick, Vice President of Government Affairs, Overland Park Chamber of Commerce who stated that Overland Park is part of a larger metropolitan area that is split by a state line, meaning they share a border with a state that allows this tool to be used. He went on to say that he believes this places Kansas cities and counties at a competitive disadvantage with their Missouri neighbors. He concluded by offering the benefits, with one being set apart from some other current tools because of its flexibility for use of the revenues derived through creation of a CID district.

A copy of Mr. Holtwick's testimony is (Attachment 5) attached and incorporated into the Minutes as referenced.

Next was Mr. Lavern Squier, Senior Vice President, Overland Park Chamber of Commerce, representing the Kansas Economic Development Alliance, who said there are many advantages to this tool that merit its approval including the importance that Kansas attracts capital investment and development, including increased retail activity that stabilizes local property taxes and those tools such as **SB119** will assist their effort which is not surprising for these tools to leverage private funds at a four to one ratio.

A copy of his testimony is (Attachment 6) attached and incorporated into the Minutes as referenced.

The last proponent to testify was Mr. Luke Bell, Vice President, Government Affairs, Kansas Association of Realtors®, who stated in a time of great turmoil and hardship in the real estate development community, this new tool would be of an enormous benefit to economic development in this state. He went on to say that given the current conditions in the credit markets. It is increasingly difficult to obtain financing for infrastructure improvements tied to new real estate development.

A copy of Mr. Bell's testimony is (Attachment 7) attached and incorporated into the Minutes as referenced.



CONTINUATION SHEET

Minutes of the Senate Commerce Committee at 8:30 a.m. on February 11, 2009, in Room 545-N of the Capitol.

Page 5

The Chair then referred the Committee to four written proponent testimonies including:

- 1) Mr. Jason Hilgers, Assistant City Manager, Manhattan, Kansas.
- 2) Mr. Dennis Lauver, President & CEO, Salina Area Chamber of Commerce, Ms. Rita Deister, Administrator, Saline County, and Jason Gage, City Manager, City of Salina.
- 3/ Ms. Ashley Sherard, Vice President, Lenexa Chamber of Commerce.
- 4) Mr. Phil Perry, Staff Vice President, Governmental Affairs, Home Builders Association of Greater Kansas City

Copies of their testimonies are (Attachment 8) attached and incorporated into the Minutes as referenced.

The Chair then recognized the only opponent of the bill, Mr. Richard Cram, Director of Policy & Research, Kansas Department of Revenue, who stated that since this proposal would authorize a special local sales tax rate as high as 2% within the CID on top of any other applicable local sales tax rates, it could effectively "crowd out" the State's ability to raise additional revenue through state sales tax rate increases.

He went on to say that the Department believes this proposal will likely cause significant proliferation of special taxing jurisdictions for the purposes of financing a greatly expanded list of types of potential projects with special local sales taxes imposed within those jurisdictions, even when there are businesses objecting to the imposition of those taxes. And he said, as the fiscal note (attached) indicates, the Department is requesting an additional FTE to implement this proposal due to the fact that they can expect a resulting large increase in the number of special taxing jurisdictions and local sales taxes.

He concluded by stating that if the proposal advances, the Department requests an amendment that would allow the State to retain 2 percent of the sales tax revenue collected from the CID to cover the Department's administration costs and suggests that the following language be added:

- at the end of Subsection 6 (a) on Page 7, line four, "The director shall retain 2% of such sales tax collected as reimbursement for expenses in administering the tax for the city or county."

-at Line 1, Page 7, in Subsection 6 (a) after "22 years from the date the state director of taxation begins collecting such tax": "or when the project bonds or pay-as-you-go costs have been paid."

Copies of his testimony and a revised fiscal notes are (Attachment 9) attached and incorporated into the Minutes as referenced.

The Chair thanked all of the conferees and then asked for questions or comments from the Committee which came from Senators Lynn, and Kelsey including reference to Mr. Cram's administrative costs, this sounds like a computer problem here are you saying you cannot program your computers well enough to handle this? Regarding the information you are needing, can't the city be responsible for getting it to you? When you suggest 2 percent be collected as reimbursement are you singling out just the CID's making this something new or are you going to include all other transportation districts?

The Chair then called on Mr. Anderson for questions of Senators Holland and Wagle including asking for an explanation of the two trigger mechanisms and what if a person is renting a business, could there be a sales tax on his/her goods? How about just making a 100 percent requirement and have just 50 percent? Do you have CID's that get a 100 percent petition? And, are the thresholds on this bill the same as what was enacted in Missouri?

The Chair closed the hearing stating the Committee would be working the bill tomorrow.

CONTINUATION SHEET

Minutes of the Senate Commerce Committee at 8:30 a.m. on February 11, 2009, in Room 545-N of the Capitol.  
Page 6

**Adjournment**

As there was no further discussion, the Chair adjourned the meeting. The time was 9:26 a.m.

The next meeting is scheduled for Thursday, February 12, 2009.

# SENATE COMMERCE COMMITTEE

## GUEST LIST

DATE: Wednesday, February 11, 2009

NAME	REPRESENTING
Whitney Zamra	City of Topeka
GARY ANDERSON	GILMORE & BELL
Phil Perry	HBA of OKC
Leslie Kaufman	K's Co-op Council
LUCILLE KECK	Hein Law Firm
Kent Eckles	KS Chamber of Commerce
Brad Stauffer	Carter Group
Luke Bell	KS Assoc. of REALTORS
Christy Caldwell	Topeka Chamber
ERIK SARTORIUS	City of Overland Park
Dave Holtwick	Overland Park Chamber
Lavern Squier	Kansas Economic Development Alliance
Dan Kenber	Kansas, Inc.
Ron Seebor	KARA
wick Jordan	Capital Strategies
John Peterson	Capital Strategies
Karl Gaps	MD Management
DENNY KOCH	POUSINEAU LAW
Kim Winn	LKAL





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ST. LOUIS, MISSOURI  
WICHITA, KANSAS  
LINCOLN, NEBRASKA

February 11, 2009

The Honorable David Wysong, Chairperson  
Honorable Julia Lynn, Vice Chairperson  
And Members of the Senate Commerce Committee  
Statehouse, Room 545-N  
Topeka, Kansas

**Re: SB 138**

Ladies and Gentlemen:

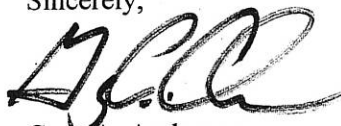
As bond counsel to many cities in the State, we recommend approval of SB 138. This bill would:

- Page 4 allow for payment of infrastructure and utility costs outside of the TIF district as determined by the City -any such costs must also be necessary to implement the redevelopment plan.
- Pages 8-9 allow a city or county to only contribute a portion (instead of 100%) of the local sales, use and transient guest taxes - this change would put these taxes on par with the property tax increment, since cities can pledge all **or a portion** of the property tax increment (KSA 12-1775(c))
- Page 15 eliminate the need for county appraiser to certify the increased assessed value in a STAR bond district since property tax is not used for STAR bonds
- Page 16 technical correction to a statutory cross-reference
- Page 17 technical clean up of definitions

These changes are generally technical in nature, but will be very helpful for the use of tax increment financing as an effective economic development tool in Kansas.

I would be happy to answer questions regarding the bill.

Sincerely,



Gary A. Anderson

Senate Commerce Committee  
*Date: February 11, 2009*

Attachment 1

**SENATE COMMERCE COMMITTEE**  
**TESTIMONY OF JOHN PETERSEN**  
**SUPPORT OF SB 119**  
**February 11, 2009**

Mr. Chairman, Members of the Committee, I am John Petersen with the Polsinelli Shughart PC Law Firm. I'm pleased to appear today on behalf of my Client, The Community Improvement Coalition, in support of SB 119 that will allow local Kansas communities to establish Community Improvement Districts ("CID"). CIDs, very similar in form and substance to what is contemplated in SB 119, have been an effective economic development tool in many states, most notably in Missouri.

In that we have had the pleasure of creating initial drafts of this legislation, I thought it might be useful to provide you a brief overview of its key provisions.

- Generally stated, the creation of a Community Improvement District – or CID – allows new revenue sources to be established within the District for purpose of paying certain development costs incurred within the District.
- Unlike Tax Increment Financing or STAR Bond Financing, a CID will not divert any sales tax or property taxes away from taxing jurisdictions. Conversely, mirroring the Transportation Development District Act, the CID legislation will allow for the imposition of an additional sales tax (of up to 2%) and/or special assessment within the District (collectively "CID Revenues"). The CID special assessments would be paid as part of the property taxes and will run with the land. In conjunction with the creation of each individual CID District, a municipality will determine whether, and in what amount, CID sales tax and/or special assessments will be utilized. The creation of a CID will not result in any lost revenue to a City, County, School District, other local taxing jurisdiction of the State of Kansas.
- CID is an additional financing tool for existing and new real estate projects. CIDs are entirely a local option, with the decision of whether or not to create a CID entirely at the discretion of the City or County in which the District would be located. A CID is formed through the voluntary petition of property owners within the proposed District.

Senate Commerce Committee

*Date: February 11, 2009*

Attachment 2

- Like TDD, CID Revenues may be used to finance land acquisition and horizontal development costs. Similar to the CID Act in Missouri, CID Revenues may also be used to finance vertical development costs and certain operational costs (e.g. entertainment, security, cleaning, and promotional) of a development project.
- A municipality may issue special or general obligation bonds to finance CID Projects. As an alternative to the issuance of Bonds, CID Revenues may be utilized on an on going basis to reimburse the costs of a CID Project (i.e. “pay-as-you-go financing”). In conjunction with the creation of each individual CID District, a municipality will determine whether pay-as-you-go financing, special obligation bonds or general obligation bonds will be utilized for such CID District. The utilization of general obligation bonds or the imposition of a CID sales tax requires a public hearing with notice.

Thank you for allowing me to appear today in support of SB 119. I would be pleased to stand for questions.

**TESTIMONY OF KARL CAPPS, MD MANAGEMENT**  
**SENATE COMMERCE COMMITTEE**  
**Wednesday, February 11, 2009**  
**SB 119**

Mr. Chairman and Senators, my name is Karl Capps and I am pleased to appear in support of SB 119. SB 119 would allow municipalities to establish Community Improvement Districts. This type of economic development tool has been available in a number of states for several years. I have been involved in a number of Community Improvement Districts in Missouri and we believe in today's economic climate we have to be competitive with our neighboring states.

This legislation compliments existing TDD and TIF options available to cities and developers in Kansas. In Missouri, CID programs have provided anywhere from about 25% of the incentive funding on our East Hills Mall re-development in St. Joseph to 100% of the funding for the Independence Events Center. SB 119 does a number of very important things.

1. Provides a local option to Cities.
2. Facilitates re-development in a City of any size whether in western or southern Kansas or in Johnson County by allowing a City to work with their existing downtown retailers, organize a CID and use that tool for façade enhancement, redevelopment, bringing in new retailers, streetscape improvements and even for historic preservation.
3. It does not divert any existing sales or property tax revenues.
4. It allows a City to tailor incentives based on the type of project, the location and the goals of the local government that would be the most effective for their particular situation.

Kansas should add this important option to the toolbox of economic development and we would urge your passage of SB 119.

Senate Commerce Committee  
*Date: February 11, 2009*  
Attachment 3



**Testimony**

**Senate Commerce Committee**

**February 11, 2009**

**SB 119 Community Improvement District Act**

**By: Christy Caldwell, Vice President Government Relations  
Greater Topeka Chamber of Commerce**

Chairman Wysong and Members of the Committee:

The Greater Topeka Chamber of Commerce would like to express our support for SB 119, the Community Improvement District Act.

The ability to utilize this economic development tool would be an asset to our community and our efforts to develop local projects. "Community Improvement Districts (CID) are powerful public-private partnerships used successfully around the country..." A CID would create the opportunity for a municipality and a developer(s) to coordinate developments within a defined district utilizing new revenues generated within the district. Those revenues could be special assessments on property owners within a district, a special sales tax and/or full faith and credit bonds. In addition to use of bonds the project could be financed as "pay as you go." Utilization of any of these funding mechanisms would trigger certain requirements where the municipality and property-owners within the district would agree.

Patterned after the successful Community Improvement Districts in Missouri, SB 119 allows for a wide range of projects to create economic growth and enhance quality of life. "It is an effective tool for financing improvements that directly enhance property values by allowing property owners to determine how funds are spent in their area." A definitive development plan must be approved by the local governing body. The plan would detail the project, the estimated costs and the sources of revenue. If full faith and credit bonds are included in the plan there is a protest petition process available.

In Topeka/Shawnee County we have begun a community visioning process. There is much agreement by thousands of visioning participants to focus on Topeka's downtown and riverfront to make this area an attractive and enjoyable place for citizens and visitors alike. Additionally a more specific plan has been developed by the Topeka Shawnee County Riverfront Authority to better utilize the Kansas River that flows through the capitol city. Many other cities have taken advantage of previously neglected riverfronts to create popular public spaces and ready the area for private investment in order to bring the surrounding property to its highest and best use. It is our hope that the same public-private investment can be made in our downtown and the riverfront area. A Community Improvement District could facilitate such development and provide the opportunity for property owners within this area to enhance our center city. We also can see other future applications of CIDs as government and the private sector continue to work together to better our entire community.

The Topeka Chamber asks that you approve SB 119; we think it is a great tool other states including our neighbors in Missouri are using to develop their communities and provide a great quality of life. Kansas would benefit as well.

Thank you.

Senate Commerce Committee

*Date: February 11, 2009*

Attachment 4



## Testimony in Support of Senate Bill 119

Submitted by Dave Holtwick  
On behalf of the Overland Park Chamber of Commerce

Senate Commerce Committee  
Wednesday, February 11<sup>th</sup>, 2009

Chairman Wysong and Committee Members:

My name is Dave Holtwick and I am Vice President of Government Affairs with the Overland Park Chamber of Commerce. I am appearing today on behalf of our board of directors and our nearly 900 member companies. I appreciate the opportunity to appear before you today to share testimony in support of Senate Bill 119 also known as the Community Improvement District Act.

This legislation would provide local municipalities another tool for their use to help stimulate local development. Overland Park is part of a larger metropolitan area that is split by a state line meaning we share a border with a state that allows this tool to be used. I believe this places Kansas cities and counties at a competitive disadvantage with our Missouri neighbors.

One of the strengths of this legislation is that the Community Improvement District (CID) is formed voluntarily with the property owners within the proposed District. This means that the businesses within the district must set themselves apart from other similar businesses (in the area but not in the district) where a consumer might not pay the same level of sales taxes they will be required to pay within the district.

Another benefit of this legislation is that creating the Community Improvement District will not divert sales or property taxes away from other taxing jurisdictions. Since this is an additional tax, creation of a CID will not result in any lost revenue to a City, County, School District or the State. This gives local units of government a powerful tool to help generate new economic activity without the fiscal note other incentives might have.

One last benefit of this legislation that sets it apart from some other current tools is the flexibility for use of the revenues derived through creation of a CID district. These revenues may be used to finance land acquisition, horizontal development costs, vertical development costs and certain operational costs (e.g. entertainment, security, cleaning, and promotional) of the development project.

In summary, I believe this legislation would provide a powerful tool for local units of government to use to help stimulate economic activity. Thank you very much for your time today. I encourage you to support Senate Bill 119.

900 Senate Commerce Committee  
Date: February 11, 2009

t Attachment 5



February 11, 2009

Dear Senate Commerce Committee:

The Kansas Economic Development Alliance is pleased to support SB 119, which allow Community Improvement Districts (CID's) to be created. We urge the committee to advance this bill forward.

There are many advantages to this tool that merit its approval:

- It is important that Kansas attract capital investment and development, including increased retail activity that stabilizes local property taxes. Tools such as SB 119 will assist our efforts.
- CID's are entirely a local option and provide significant flexibility to encourage progress and are formed via a voluntary petition of property owners within the proposed District. Local governments determine funding levels, source of the revenue used in a district and timing of the financing. A CID will not divert any sales or property tax away from any local or state government. District revenues may be used to finance land acquisition, horizontal or vertical development costs and some operational costs of a project.
- Kansas is in a competitive situation to attract developer capital and retailers. Other states frequently see CID's successfully used to leverage private sector investment. It is not surprising for these tools to leverage private funds at a 4 to 1 ratio.

Thank you for the opportunity to provide our input about this legislation. We urge to you advance SB 119 and to support its final approval.

Senate Commerce Committee  
Date: February 11, 2009  
Attachment 6



To: Senate Commerce Committee

From: Luke Bell, Vice President of Governmental Affairs

Date: February 11, 2009

Subject: **SB 119** – Allowing Cities and Counties to Establish Community Improvement Districts to Provide Financing for Economic Development

Chairman Wysong and members of the Senate Commerce Committee, thank you for the opportunity to appear today on behalf of the Kansas Association of REALTORS® (KAR) to offer testimony in support of **SB 119**. KAR has faithfully represented the interests of the 9,000 real estate professionals and over 700,000 homeowners in the State of Kansas for over 85 years.

**SB 119** would allow cities and counties to establish a Community Improvement District to provide financing for economic development projects. The formation of these districts would be entirely voluntary through petition of property owners within the proposed district.

Unlike Tax Increment Financing (TIF) districts, a Community Improvement District will not divert any sales or property taxes away from taxing jurisdictions like cities, counties or school districts. Instead, the Community Development District will only allow for the imposition of an additional sales tax (up to 2.0%) or special assessments within the district.

The funding generated by the Community Improvement District may be used to finance land acquisition, horizontal development costs, vertical development costs and certain operational costs (e.g. entertainment, security, cleaning, and promotional) for the development project. Similar legislation has been enacted in numerous other states around the country and has been instrumental in providing infrastructure financing for new real estate development.

In a time of great turmoil and hardship in the real estate development community, this new tool would be of an enormous benefit to economic development in this state. Given the current conditions in the credit markets, it is increasingly difficult to obtain financing for infrastructure improvements tied to new real estate development.

We would urge you to support **SB 119** to provide a new economic development financing tool for real estate development in Kansas. Thank you for the opportunity to appear before you today. I would be happy to respond to any questions at the appropriate time.

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785.267.1867  
FAX

Senate Commerce Committee

*Date: February 11, 2009*

Attachment 7



**Senate Committee on Commerce**

**Hearing on Senate Bill 119**

**Wednesday February 11, 2009**

**Testimony of Jason Hilgers**

**Assistant City Manager, City of Manhattan, Kansas**

Good afternoon Chairperson Wysong and Honorable Members of the Senate Commerce Committee. My name is Jason Hilgers, and I am the Assistant City Manager for the City of Manhattan. I want to thank you for this time to address the Committee regarding an issue that holds great potential for the City of Manhattan.

The City of Manhattan supports SB 119. The bill offers the City a mechanism to establish a Community Improvement District (CID) to provide financing for economic development and redevelopment in Manhattan. This additional financing tool will allow for the imposition of additional sales taxes on certain businesses that stand to benefit from the proposed use of those funds. The Community Improvement District (CID) legislation provides for an expanded use of what is currently in place with Transportation Development Districts (TDD). Community Improvement Districts offer an option at the local level for discretion to provide gap financing for economic development in this ever changing climate of commercial development. This legislation will provide municipalities, including Manhattan, with another redevelopment and economic development tool, to assist in recruiting and retaining businesses, and stay competitive in Kansas. Thank you for your consideration today.

**Written testimony in support of SB 119  
Kansas Senate Finance Committee - February 11, 2009**

**Comments by:**

**Dennis Lauver, President & CEO, Salina Area Chamber of Commerce  
Rita Deister, Administrator, Saline County  
Jason Gage, City Manager, City of Salina**

We are pleased to support SB 119, which allow Community Improvement Districts (CID's) to be created. There are many advantages to this tool that will help encourage development.

In Salina, we are working to attract capital investment and development, including increased retail activity that stabilizes local property taxes. Tools such as SB 119 will assist our efforts.

CID's are entirely a local option and provide significant flexibility to encourage progress and are formed via a voluntary petition of property owners within the proposed District. Local governments determine funding levels, source of the revenue used in a district and timing of the financing. A CID will not divert any sales or property tax away from any local or state government. District revenues may be used to finance land acquisition, horizontal or vertical development costs and some operational costs of a project.

In Salina, we expect at least two different projects to seek access to this tool immediately upon enactment. One project is a new development site and the second project is a redevelopment opportunity. A CID will be a valuable tool to prevent decline after a project enters its second generation. A district will be used to make site improvements that will re-energize older sites. Façade and building improvements can trigger new activity and new retail business – and helps surrounding neighborhoods because of new capital investment at the development site.

Salina competes against multiple states to attract developer capital and to attract retailers. Other states frequently see CID's successfully used to leverage private sector investment. It is not surprising for these tools to leverage private funds at a 4 to 1 ratio.

Thank you for the opportunity to provide our input about this legislation. We urge to you advance SB 119 and to approve it as law.



*The Historic Lackman-Thompson Estate*

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TO: Senator David Wysong, Chairperson  
Senator Julia Lynn, Vice-Chairperson  
Members, Senate Commerce Committee

FROM: Ashley Sherard, Vice-President  
Lenexa Chamber of Commerce

DATE: February 11, 2009

RE: **SB 119 – Local Option Community Improvement Districts**

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The Lenexa Chamber of Commerce would like to express its support for the concepts embodied in SB 119, which would authorize the creation of local option “Community Improvement Districts” to facilitate economic development or redevelopment, funded either by up to an additional 2% sales tax or a special assessment within the district.

Much like the state, local governments are often faced with the challenge of maintaining and promoting their communities utilizing limited financial resources. Difficult choices must be made among priorities, and development or redevelopment projects that would likely make a meaningful difference to the community often must be deferred.

Accordingly, we believe the concepts embodied in SB 119 are a key step in the right direction. Allowing communities additional local option funding tools for economic development projects helps to ensure a range of affordable financing options from which to choose. The flexibility created by having a variety of such tools improves local governments’ ability to customize funding proposals that best reflect the actual needs and circumstances of a specific project, helping to control costs and ensuring that critical development remains within reach.

For these reasons, the Lenexa Chamber of Commerce urges the committee to recommend SB 119 favorably. Thank you for your time and consideration of this important issue.



**HOME BUILDERS ASSOCIATION  
OF GREATER KANSAS CITY**



600 EAST 103<sup>RD</sup> STREET • KANSAS CITY, MISSOURI 64131-4300 • (816) 942-8800 • FAX (816) 942-8367 • www.kchba.org

**Written Testimony on SB 119  
Phil Perry, Staff VP, Governmental Affairs  
Senate Commerce Committee  
February 11, 2009**

Mr. Chairman and members of the committee, thank you for the opportunity to appear before you today. My name is Phil Perry and I am the Staff VP of Governmental Affairs for the Home Builders Association of Greater Kansas City, representing over 850 members and associates in the metropolitan area and I offer written testimony today in favor of SB 119, an act concerning creation of Community Improvement Districts.

The Home Builders Association of Greater Kansas City believes that SB 119 will create a new tool for economic development in the State of Kansas that has long been needed. This law will allow communities and individual developments, both residential and commercial, a new way to creatively finance projects that will not create a financial burden on any taxing entity. This process has been used successfully in states throughout our nation for a number of years to both help greenfield and infill development.

The proposal allows city or county governments the ability to establish either a sales tax or special assessment for the district and to issue either bonds or institute a pay-as-you-go financing to cover costs associated with the development. We have seen this type of district used on the Missouri side of the metropolitan area for a number of years in a highly successful manner.

We urge the committee to move this timely bill forward as communities and developers look for innovative ways to create finance and market their developments. With the economy and the banking industry in such disarray, this proposal could not have come at a better time.

Thank you very much for your time.

*Do Business With A Member*

8-4



Testimony to the Senate Commerce Committee

Richard Cram

February 11, 2009

**Department Concerns with Senate Bill 119**

Senator Wysong, Chair, and Members of the Committee:

Senate Bill 119, which creates the community improvement district (CID) act, would greatly expand the taxing authority for cities and counties and allow them to finance a broad array of economic development projects with special local sales taxes. The districts can be created two ways: 1) when all owners of the land within the district sign the petition and the financing is only by assessments and not seeking the issuance of full faith and credit bonds, or 2) upon a petition of at least 50% of the land owners and owners collectively owning more than 50% by assessed value of the land within the proposed district, with the project financed by a CID sales tax or full faith and credit bonds or both.

The proposal is patterned after the transportation development district (TDD) act, K.S.A. 2008 Supp. 12-17,140 et seq., only with much more expansive powers for cities and counties in creating new taxing jurisdictions to fund various projects with special local sales taxes.

A comparison of the transportation development district act and the proposed community improvement district act highlights the significant expansion of taxing authority:

Requirements for creating the district

**TDD**

Must have a petition signed by the owners of all of the land area within the district to move forward.

**CID**

Must have a petition signed by the owners of all of the land area with the district (if the project is financed only by assessments) or petition must be signed by the owners of more than 50% of the land area and signed by owners collectively owning more than 50% by assessed value of the land area (if the project is financed by bonds and/or sales tax). Thus, a CID could be created even when there are objecting property owners or businesses within the proposed district.

## Sales tax increments and limits on use of sales tax revenues

### TDD

Increments can be of .1% or .25% up to 1%.

### CID

Increments of .1% or .25% up to 2%. The rate authority for a CID is double that for a TDD.

Both the TDD and CID acts provide authority for the following types of projects: bridge, street, road, highway access road, interchange signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail another other mass transit facility, streetscape or any other transportation related project or infrastructure including: utility relocation, sanitary and storm sewers and lift stations, drainage conduits, channels, levees, street light fixtures, heating and electrical services and connections, pedestrian underpasses or overpasses, water main and extensions; also, building facade but only when remodeling, repairing enlarging reconstructing an existing building.

The CID act further authorizes: buildings, structures and facilities, abandoned cemeteries, parks, lawns, trees and other landscape, paintings, murals, display cases, sculptures, fountains and other cultural amenities.

Also, the CID act would authorize financing for:

- operation or contract for the provision of music, news, child-care, or parking lots or garages, and buses, minibuses and other modes of transportation;
- provision of or contact for security personnel, equipment or facilities;
- provision of or contact for cleaning, maintenance and other services;
- promotion of any tourism, recreational or cultural activity or special event;
- support of business activity and economic development including the promotion of business activity, development and retention and recruitment of developers and business;
- provision of or support training programs for employees of businesses; or
- contracting for or conduct economic impact, planning and marketing studies.

Since this proposal would authorize a special local sales tax rate as high as 2% within the CID--on top of any other applicable local sales tax rates—it could effectively “crowd out” the State’s ability to raise additional revenue through state sales tax rate increases.

The Department believes this proposal will likely cause significant proliferation of special taxing jurisdictions for the purposes of financing a greatly expanded list of types of potential projects with special local sales taxes imposed within those jurisdictions—even when there are businesses objecting to imposition of those taxes. Since the TDD act has been on the books (2003), the Department has seen a steady increase in the creation of TDD special taxing jurisdictions. There are now 25 of them, with 5 more in the works. For each TDD, Department field staff must notify the businesses located in the TDD of the TDD tax. Those businesses must use a special new jurisdiction code to report the special sales tax they collect. Department staff must then coordinate with the city or

county staff where the TDD is located to determine the amount of special sales tax that was collected each reporting period, in order ensure that distribution of this revenue is accurate. It is an ongoing task verifying which businesses are located within a TDD, and correcting errors when it turns out certain businesses should have been included in the TDD. Currently, the Department dedicates 1.5 FTE to this function. As our fiscal note (attached) indicates, the Department is requesting an additional FTE to implement this proposal, due to the fact that we can expect a resulting large increase in the number of special taxing jurisdictions and local sales taxes.

#### Amendments Needed

If this proposal does advance (the Department recommends that it not advance), the Department requests an amendment that would allow the State to retain 2% of the sales tax revenue collected from the CID tax to cover the Department's administration costs. The following language should be added at the end of Subsection 6(a) on Page 7, line 4: "The director shall retain 2% of such sales tax collected as reimbursement for expenses in administering the tax for the city or county."

At Subsection 6(a), Pages 6-7, the proposal states the sales tax shall expire 22 years from the date the state director of taxation begins collecting such tax. The Department also suggests that at Line 1, Page 7, in Subsection 6(a) of the bill, the following language be added after "22 years from the date the state director of taxation begins collecting such tax": "or when the project bonds or pay-as-you-go costs have been paid". Without this change, the tax could continue on for a number of years after all costs have been paid.

# 2009 Senate Bill 119a Revised Fiscal Note

Introduced as a Senate Bill

## Brief of Bill

Senate Bill 119, as Introduced, would create the community improvement district act. The act would provide the ability for cities and counties to create community improvement districts (CIDs) for the purpose of financing economic development projects. The districts can be created two ways: 1) when all owners of the land within the district sign the petition and the financing is only by assessments and not seeking the issuance of full faith and credit bonds, or 2) upon a petition of at least 50% of the land owners and owners collectively owning more than 50% by assessed value of the land within the proposed district. In this instance, the project can be financed by a CID sales tax or full faith and credit bonds or both. Projects eligible under the CID act include any project to acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip or extend:

- buildings, structures and facilities;
- sidewalks, streets, roads, etc.
- parking garages, streetscape, lighting, benches, marquees, etc.
- parks, lawns and landscapes,
- communication and information booths, bus stops, terminals, hangers, etc.
- partings murals, sculptures, fountains and other cultural amenities,
- airports, railroads, light rail and other mass transit
- lakes, dams, docks, wharfs, posts, etc.

The proposal would also enable a municipality to

- to operate or to contract for the provision of music, news, child-care, or parking lots or garages, and buses, minibuses and other modes of transportation;
- to provide or contract for security personnel, equipment or facilities;
- to provide or contract for cleaning, maintenance and other services,
- to products and promote any tourism, recreational or cultural activity or special event,
- to support business activity and economic development including the promotion of business activity, development and retention and recruitment of developers and business
- to provide or support raining programs for employees of businesses
- to contract or conduct economic impact, planning and marketing studies

The community improvement district sales tax would be levied by ordinance or resolution and be in any increment of .10% or .25% not to exceed 2%. All of the CID sales tax would be pledged for payment of the pay-as-you-go projects or the bonds. The sales tax would expire 22 years after the state director of taxation begins collection of the tax. The CID sales tax would be administered by the department of revenue in the same manner provided for the collection of the state retailers' sales tax. CID sales tax would be deposited into a CID sales tax fund and distributed back to the municipality at least quarterly.

The Act would be effective July 1, 2009.

### **Fiscal Impact**

The proposal does not impact state revenues. It provides the ability for a city or county to create a community improvement district and assess property tax or a sales tax for the payment of improvements within the district as part of an economic development project. Although the CID sales tax is limited to a specific area of the city or county, the ability to enact the additional local sales tax may hamper future efforts by the State of Kansas in using sales tax as a taxation method for increasing state revenues. If many cities and counties use CID sales tax, the combined state and local sales tax rate may be high enough that it limits the ability of the State to raise the state sales tax as an additional revenue source.

### **Administrative Impact**

As is the case with transportation development districts, these special districts create additional processing and tracking by the department to properly administer the districts. To date, the department has administered the TDD districts at no cost to the cities implementing a TDD. This proposal could likely cause a significant proliferation of special sales tax districts, increasing the administrative burden on the department, as well as the retailers within those districts.

The department will require 1 FTE at a cost of \$60,000 in fiscal year 2010. The costs represent salary, benefits, and one-time equipment costs for one FTE. In addition, the department would suggest the proposal be amended to provide for administrative costs be reimbursed to the department as part of the project (see administrative problems and comments).

### **Administrative Problems and Comments**

The department suggests a revision in Section 6 as it concerns the community improvement district sales tax. The proposal states the sales tax shall expire 22 years from the date the state director of taxation begins collecting such tax. It is suggested that this be amended to include "or when the project bonds or pay-as-you-go costs have been paid". Without this change, the tax could continue on for a number of years after all costs have been paid.

As mentioned under administrative impact, the proposal does not provide means for the department to be reimbursed for costs associated with the administration of a community improvement district. It is suggested that the proposal be amended to include language for the retention of 2% of the CID sales tax collected by the department as reimbursement for expenses in administering the tax for the city or county.

The proposal provides broad authority for a municipality on what the money within a CID could be spent on. Unlike most taxes, the CID sales tax does not require a vote of the people within the taxing district - the tax can be assessed by the signing of a petition of 50% of the land owners. It is suggested the proposal be amended to limit the type of expenditures that can be made as project costs and that either a vote be required to levy the sales tax or 100% of the land owners sign a petition, as is the case with transportation development district sales tax.