KANSAS
DEPARTMENT OF COMMERCE

Steve Kelly, Acting Secretary

SB 316

Testimony Presented by Robert North, Chief Attorney

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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.

<u>Proposed Change</u>: 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. *<u>Sales and Other Tax Increments</u>.*

<u>Current Law</u>: 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.

<u>Proposed Change</u>: 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.