

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:30 a.m. on February 12, 2010, in Room 548-S of the Capitol.

All members were present except:

Senator Tom Holland- excused
Senator Dick Kelsey- excused

Committee staff present:

Ken Wilke, Office of the Revisor of Statutes
Reed Holwegner, Kansas Legislative Research Department
Kathie Sparks, Kansas Legislative Research Department
Marilyn Arnone, Committee Assistant

Conferees appearing before the Committee:

Allen Bell, Urban development Director for City of Wichita
Bill Thornton, Acting Secretary of Commerce
Robert North, General Counsel, Department of Commerce Legal
John Peterson, Community Improvement Coalition
James E. Harpool, Director of Development, MD Management

Others attending:

See attached list.

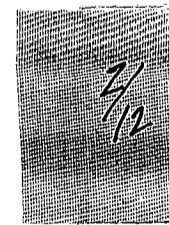
Senator Brownlee welcomed Allen Bell, Urban Development Director for City of Wichita to give the Committee an update on the Wichita River District STAR Bond Project. (Attachment 1) The River District is a \$150 million dollar project composed of two major components. One is the water lock project which is a 25 acre mixed use-commercial, residential, office-development just south of the Century II Convention Center. The other is River Corridor that is to make public space improvements along the Arkansas River. The combined area is know as the River District.

The financing for these projects has come from local GO bonds, local TIF financing, federal grants, private investment and \$13 million in state/local STAR bonds. This project was approved by the Secretary of Commerce in 2007. Bond sale for the \$13 million is scheduled for May 2010. Bond proceeds will be used for three major components of the River District project - Keeper of the Plains Plaza and bridges, riverbank improvement and the Waltzing Waters Fountain, a signature piece of the Water Walk area. Keeper of the Plains area construction is completed including bridges across the little Arkansas River and the big Arkansas Rivers to the Plaza that has become a big tourist attraction. It houses the Mid-American Indian Center and a statue designed by a nationally prominent Indian artist, Black Bear Bosin that was dedicated to the City of Wichita nearly 40 years ago. Riverbank improvements in partnership with the Broadview Hotel will feature elaborate landscaping, artscaping, and public spaces. This part of the project is fully designed and going out for bids in March. The Waltzing Waters Fountain has been purchased and will feature dancing water and colored lights all computerized and set to music. A Water Walk hotel has just been announced to be near Water Walk Place which is a combination of condominiums, offices and retail shops. A goal of the River District is to become a destination stop for tourists and a great place for Kansans to visit and enjoy.

Senator Faust-Goudeau asked what is the expected time of completion for the project of The Waltzing Waters. Mr. Bell said that when the bonds are sold, that starts a two year clock in which time they are legally obligated to complete all the improvements that are financed by the bonds. The entire STAR bonds project will be completed in 2012.

Acting Secretary Thornton from the Commerce Department was welcomed back to complete the overview of STAR bonds. (Attachment 2)

The Wizards Soccer Stadium and Cerner Office Complex in Wyandotte County was approved for \$147 million in STAR bonds. The project's economic impact is projected at over \$500 million and includes a pro soccer stadium, multi-sport athletic facility, youth soccer fields and Cerner office complex. \$25 million in STAR bonds will be requested and issued in the next few weeks for building materials. The negotiations



CONTINUATION SHEET

Minutes of the Senate Commerce Committee at 8:30 a.m. on February 12, 2010, in Room 548-S of the Capitol.

included clawbacks if the number of jobs is not met. Commerce asked for these clawbacks as a contingency on approval of STAR bonds. Clawbacks included if the developers were not on time with building the soccer complex, the ownership reverted back to the UG; a personal guarantee from the owners that \$30 million would come back to the state if the jobs weren't fulfilled by a specified date and some restrictions on the transfer of the soccer stadium. The Impact agreement was a \$60 million clawback to the state if Cerner didn't realize a specified number of jobs by 2016.

There have been discussions with Wichita officials about potential projects. Commerce is working to amend regulations to better administrate and implement the STAR Bond Act.

Chairperson Brownlee emphasized the need for more accountability and for detailed information concerning the Cerner/Wizzards STAR Bond project. The information should include the anticipated revenue to the state and the timeline for the financial transactions.

Secretary Thornton was prepared to answer some of the questions that were asked in the first part of the Overview. (Attachment 3) His answers will include the four completed projects. The first question concerned how projections compared to actual performances of STAR bond projects. In the Hutchinson project, the jobs and visitation goals have not been met, but the sales tax revenues are meeting the cash flow requirement. Sales tax projections of \$880,000 annually are generally being met. Heartland Park indicates that benefits will eventually not exceed costs and there is not enough sales tax revenue to pay the STAR bonds. Because Topeka issued "Full Faith and Credit" bonds, the city is responsible for the debt service. The analysis was based on a projected increase in motorsports activity which has not been met. Village West at Kansas Speedway has exceeded original projections in visitors, sales tax revenue and capital investments.

The second question related to projects starting on time and how is the start date defined. Manhattan missed the two year deadline to "commence work" as required by statute, but the statute also expressly authorizes the city to appeal to the Secretary for additional time which Manhattan did, and the time was granted. The third question was if Commerce had a plan if economic conditions changed to jeopardize success of the projects. Current law requires the state to be a minority partner in these projects and only 50% of a project can be funded by STAR bonds. These bonds are only dispersed when a developer invests its own 50% funds. The risk lies with the bondholders and the developers; the state is not liable for repayment of the bonds. The last question was concerning monitoring projects that are at risk. All projects are monitored through a statutorily required reporting process and through periodic meetings with city officials and developers. Once bonds are issued, there is little the state can do to influence the success of a project.

Chairperson Brownlee reopened the Hearing on **SB 495 - STAR bonds; use of sales tax revenue; approval of certain projects**

Commerce General Counsel Robert North presented a change of language developed by Commerce for SB 495. On page 2 of the bill, lines 37 through 41, the proposed language to be inserted in lieu of the present language is "After the initial approval of a STAR bond project by the Secretary, than any addition, expansion or new project within such STAR bond project district shall be financed solely from the tax increment revenues, as defined by KSA 12-17, 162 (dd), generated from the addition, expansion or new project. This provision shall apply to all existing STAR bond projects." This is to clarify the committee's intent that only new revenue can be used to fund additional projects. Commerce also believes a slight change to the definition of "tax increment" in KSA 12-17, 162 (dd) is necessary to implement this intention. The following in lieu of present language, "For purposes of this subsection, the base year shall be the 12-month period immediately prior to the month in which a STAR bond project plan or addition or expansion of an existing project is approved by the secretary." The current definition does not work for some projects. (Attachment 4)

Chairperson Brownlee closed the Hearing on **SB 495** until it can be finalized on Tuesday, February 16.

HCR 5027 - Endorsing Taiwan's participation as an observer in the ICAO and UNFCCCCHCR Resolution

CONTINUATION SHEET

Minutes of the Senate Commerce Committee at 8:30 a.m. on February 12, 2010, in Room 548-S of the Capitol.

Chairperson Brownlee opened the Hearing on HCR 5027.

After a brief discussion, Senator Schodorf moved that the resolution be passed out of committee. Senator Emler seconded the motion. Motion carried.

Chairperson Brownlee opened the Hearing on SB 482 - Community improvement district act; reallocation of assessments on certain exempted property

Chairperson Brownlee said that John Peterson, Community Improvement Coalition, had submitted written testimony (Attachment 5) on this bill and that he also had some suggested amendments. (Attachment 6) She asked Mr. Peterson to explain his amendments.

Mr. Peterson offered several amendments to the bill. His first suggested amendment is to restore language in Section 1 (f) "of not to exceed 5% of the total cost of the project or the cost of the work done" that has currently been deleted. The next suggestion comes in Section 3 and is to delete newly added language "excluding the assessed value of improvements." The third change is to insert language in Section 3 (g) of "As an alternative to the other methods described in this act for modifying an existing" and "and all property owners that signed the petition creating the original district."

Senator Emler commented that restoring the language would be appropriate. He suggested the definition of Assessments should have the wording "immediately preceding the filing of the petition" at the end of the stated definition. The committee agreed and Senator Emler so moved. Senator Wagle seconded and the motion carried.

Senator Reitz moved the amendments on the first page of the balloon be approved. Senator Emler seconded the motion and the motion carried.

Senator Emler moved that the balloon change on Page 4 be approved. Senator Schodorf seconded and the motion carried.

Senator Wagle moved the balloon changes on Page 6 be approved. Senator Lynn seconded. Motion carried.

Policy changes concerning the TIF district will be discussed at the next meeting.

Senator Wagle moved that SB482 be favorably passed out of committee. Senator Schodorf seconded. Motion carried.


The next meeting is scheduled for February 16, 2010.

The meeting was adjourned at 09:30am

BUSINESS AND LABOR COMMITTEE GUEST LIST

DATE: 2/12/10

NAME	REPRESENTING
JOHN BOJTENBERG	Bojtenberg & ASSOC
LARRY R BASK	LKM
Stan Ahlerich	Kausas, Inc.
SEAN MILLER	CAPITOL STRATEGIES
JOHN PETERSON	CAPITOL STRATEGIES
DICK CARTER	CITY OF MANHATTAN

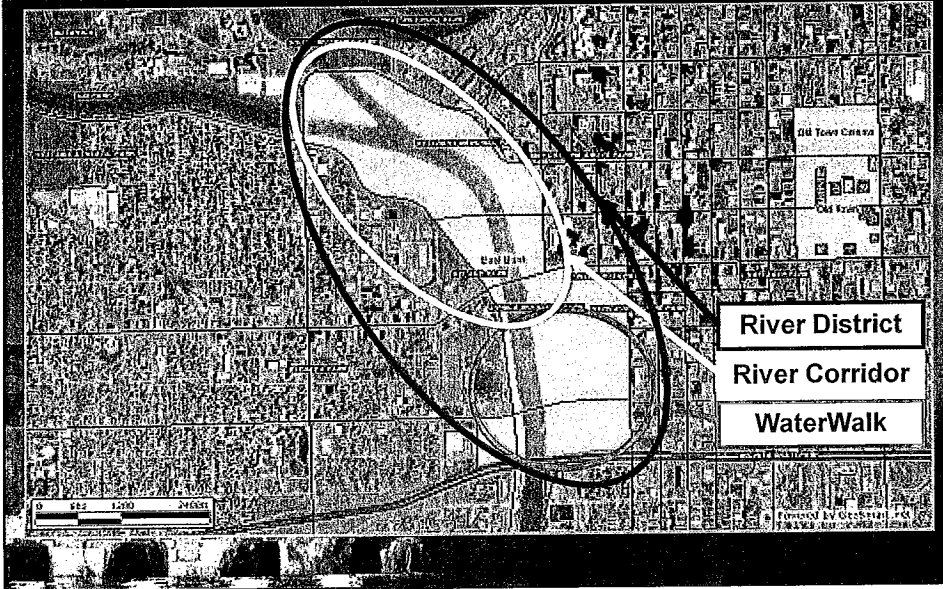


Wichita River District STAR Bond Project

River District Project

- The River District Redevelopment Project Plan is a \$155.3 million project
- There are two components of the Plan:
 - Water Walk – 25-acre mixed-use urban development
 - River Corridor – River bank public space improvements

River District Project



Sources and Uses of Financing (Summary)

Sources of Financing

Local GO Bonds	\$ 28,232,500	
Local TIF Financing	24,520,000	
State/Local STAR Bonds	13,000,000	
Federal Grants	3,047,500	
Private Investment	87,000,000	
Total Sources of Financing		\$ 155,800,000

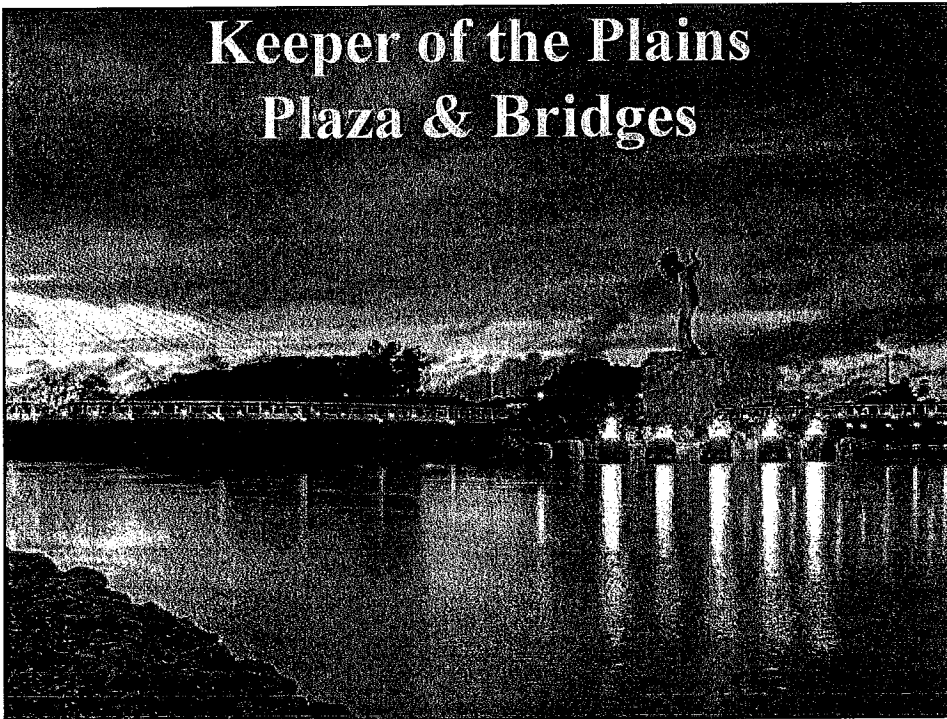
Uses of Financing

Public Investment		
River Corridor Improvements	\$ 32,000,000	
WaterWalk	36,800,000	
Private Investment		
WaterWalk	87,000,000	
Total Uses of Financing		\$ 155,800,000

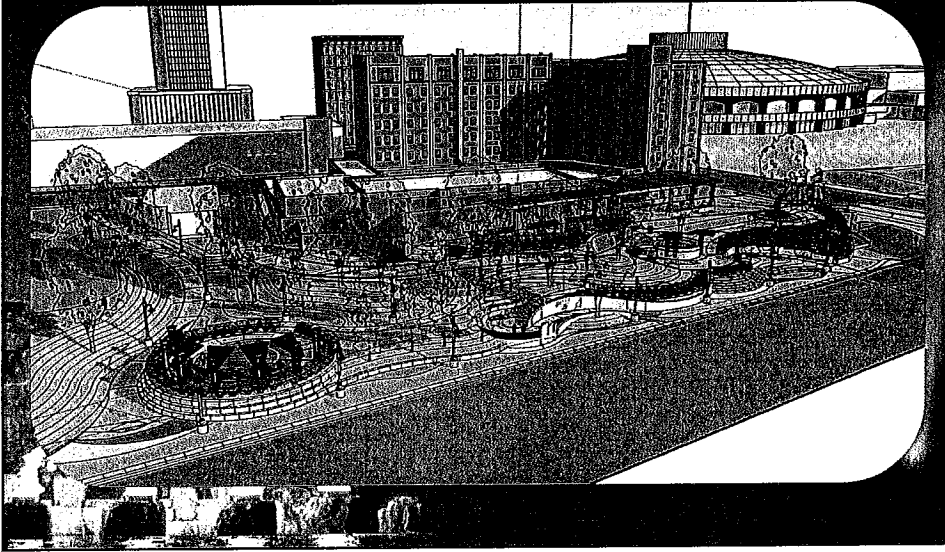
History and Uses

- STAR Bonds approved by Secretary of Commerce in 2007
- Bond sale scheduled for May 2010
- Bond proceeds to be used for:
 - Keeper of the Plains (\$7,000,000)
 - Riverbank Improvements (\$2,500,000)
 - Walzing Waters Fountain (\$3,500,000)

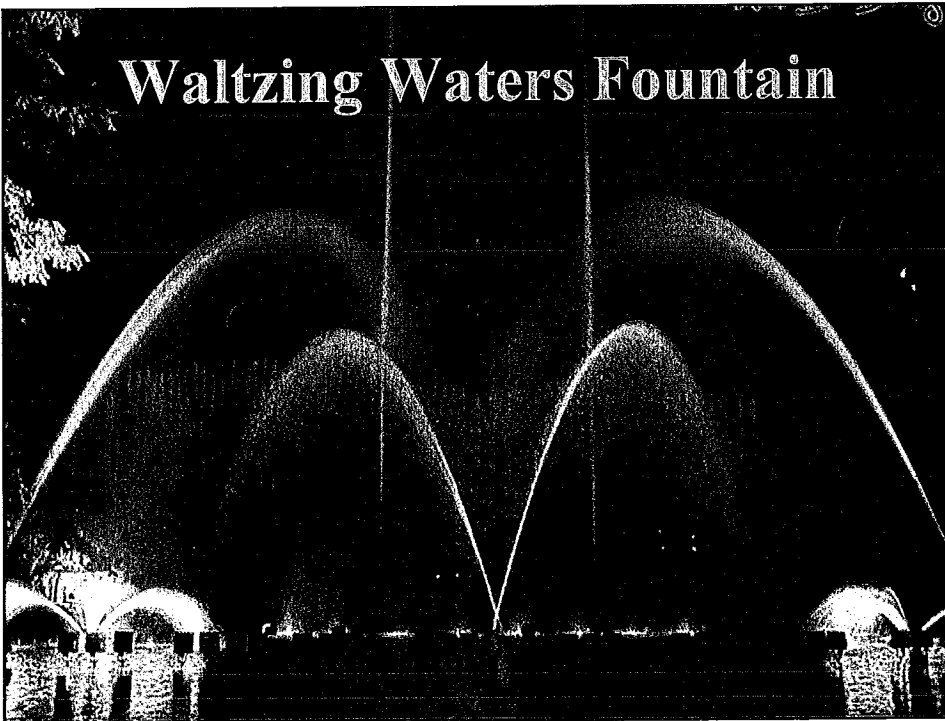
Keeper of the Plains Plaza & Bridges



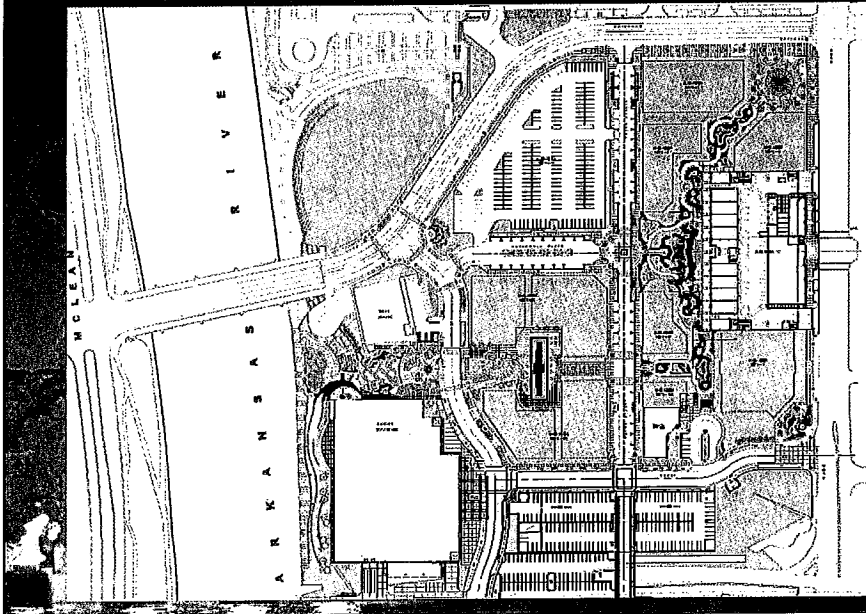
Riverbank Improvements



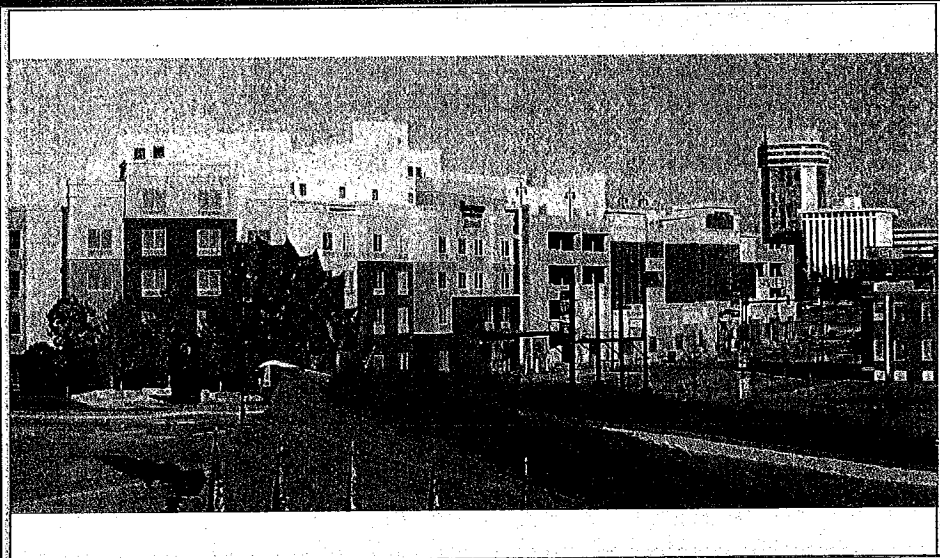
Waltzing Waters Fountain



WaterWalk Plan Today



New WaterWalk Hotel




KANSAS
DEPARTMENT OF COMMERCE
STAR Bond Annual Report
Fiscal Year 2009

Senate Committee on Commerce
William R. Thornton, Acting Secretary
February 3, 2010

STAR Bonds

Sales Tax Revenue (STAR) Bonds enable Kansas municipalities to issue bonds to finance the development of major commercial, entertainment and tourism areas and use the sales tax revenue generated by the development to pay off the bonds.

2

Statutory Obligations

K.S.A. 12-17,169 (c)

- Annual Report for projects funded with special obligation bonds

K.S.A. 12-17,177 (d) & 12-17,169 (c)

- Each city with a project funded with special obligation bonds payable from state sales tax revenue must submit an annual report to the Secretary of Commerce.

3

Kansas Speedway/Village West (Wyandotte County)

- No. 1 tourist attraction in Kansas.
- Created 3,500 new jobs that are generating more than \$55 million in annual payroll.
- Generated ~~more than~~ \$900 million in combined public and private investment with annual sales of more than \$400 million.
- Legends at Village West adding new venues.
- All bond proceeds have been expended.
- To date, more than \$240 million dollars in local and state sales taxes have been generated.

4

Heartland Park Racetrack (Topeka)

- \$10.5 million in bonds issued in 2006 for a \$24 million project.
- Phase I renovations to racetrack and visitor amenities are complete.
- City of Topeka reported \$230,000 in local sales tax; State sales taxes were \$557,000.
- Topeka reports that sales tax revenues will likely be insufficient to make bond payments in 2010. Because Topeka issued "Full Faith and Credit" bonds, the city is responsible for the debt service.

5

Kansas Underground Salt Museum (Hutchinson)

- \$4.8 million in bonds for \$10 million project approved in 2006.
- Attraction is unique in the Western Hemisphere, featuring an underground museum, theatre and elevator that goes 650 feet below ground.
- Potential economic impact estimated at over \$36 million; Attendance projections have been met for the most recent reporting period.
- \$2.5 million in sales tax collected, with bonds projected to be retired in 2014.

6

Senate Commerce Committee

Date: February 12, 2010

Attachment # 2-1

Flint Hills Discovery Center (Manhattan)

- \$50 million in bonds issued for \$108 million project that was approved in December 2006.
- Project includes 30,000 square-foot center and museum, hotel/conference center, restaurants, entertainment venues and an outdoor park.
- Economic impact: \$160 million capital investment, 1,200 construction jobs (\$27 million payroll) and 1,000 permanent employees (\$21 million payroll).
- Architectural/engineering studies are almost done. Construction scheduled to begin this summer.

7

Schlitterbahn Vacation Village (Unified Government of Wyandotte)

- \$225 million in bonds were approved for a \$700 million project that includes a water park resort, vacation village and retail components.
- Phase I of water park opened in July 2009.
- More than \$178 million in private funds expended on the project to date.
- The Department of Commerce anticipates bonds will be issued in next few months.

8

Mission Gateway (Mission)

- \$63 million in bonds authorized for \$307 million project.
- Project includes a 70,000 square-foot aquarium, movie/dinner theater and hotel, along with retail and entertainment venues.
- Project will generate 1,500 full-time jobs and 1,525 indirect/induced jobs with a total payroll of \$58 million.
- Project forecast to produce \$120 million in annual retail sales.

9

Wichita Water Walk (Wichita)

- \$14.7 million in bonds approved for this \$155 million project.
- Project includes the redevelopment of public space along the Arkansas River, including the Keeper of the Plains monument and an interactive water show.
- Estimated to bring 800,000 to 1 million new visitors to Wichita each year.
- Projected to produce 1,250 full-time jobs and generate annual retail sales of \$78 million.

10

Prairiefire (Overland Park)

- \$66 million in bonds were authorized in September 2009 for a \$573 million museum project.
- Project includes an American Museum of Natural History-affiliated museum, a wetlands park, retail and entertainment venues and prairie gardens.
- Estimated to create 1,900 full-time jobs and 2,600 indirect/induced jobs.
- Forecast to bring 1.9 million new visitors to Overland Park and generate \$154 million in annual sales.

11

Wizards Soccer Stadium, Cerner Office Complex (Wyandotte County)

- \$147 million in bonds approved for a \$414 million project comprising a pro soccer stadium, multi-sport athletic facility, youth soccer fields and office complex.
- Economic impact is projected at over \$500 million.
- Stadium/sports project should create 2,430 full- and part-time jobs and \$60 million in new tax revenue.
- Cerner has committed to 4,500 new jobs with an average salary of \$65,000 at the office complex.

12

Additional STAR bond projects

- Discussions with Wichita officials about potential projects
- Amending Commerce regulations to better administrate and implement the STAR Bond Act.

13



KANSAS
DEPARTMENT OF COMMERCE
KansasCommerce.com

**Testimony on STAR Bond
to
The Senate Commerce Committee**

**by William R. Thornton
Acting Secretary
Kansas Department of Commerce**

February 12, 2010

Chairwoman Brownlee and members of the Committee, thank you for the opportunity to address additional questions on STAR Bond projects.

1. How do projections compare to actual performance?

Hutchinson - The Docking Institute at Fort Hays State projected the following: potential 487 primary and 438 secondary jobs – not met yet, 438 secondary. Visitation – goal of 250,000 by 2010; actual visitation is approximately 50,000 + which is short of goal but sales tax revenues are meeting the cash flow requirement. Sales tax projections were \$880,000 annually this projection is generally being met.

Heartland Park - Braede & Associates, a leading sports economist, indicated that benefits will eventually exceed costs and that there was adequate sales tax revenue to pay the STAR bonds. Analysis was based on projected 35% general increase in motorsports activity, which has not been met.

Speedway Village West - Projections as to visitors, sales tax revenue and capital investments have generally exceeded original expectations. The original bonds were refinanced due to

greater sales tax revenue than anticipated. Housing in Wyandotte County has also seen a significant boost related to this development.

2. Are there any projects that have missed the 2 year start date and how is the “start date” defined?

Manhattan missed the 2 year deadline to “commence work” as required by KSA 12-17,167(o). However the statute expressly authorizes the city to appeal to the Secretary for additional time, which may be granted for up to 2 years.

Chronology:

- October 1, 2008 request for extension of time received. (original expiration date was December 28, 2008).
- October 15, 2008 Letter allowing 6 month extension until June 27, 2009.
- May 21, 2009 requested another 3 month extension to September 27, 2009.
- In August, 2009 updated feasibility study & report was prepared prior to issuing bonds.
- Bonds sold 12/1/09

3. What is our plan if economic conditions change to jeopardize success of the project?

Economic changes are relatively difficult to predict. The Legislature & Commerce have enacted several provisions to protect the state. Current law requires the state to be a minority partner in these projects by only allowing up to 50% of a project to be funded with STAR bonds which allows the state to better manage it's risk.

Cities have similar concerns and work with the state to analyze developer experience and financial capabilities. Financial market conditions also provide a layer of predictability for a project. Bond buyers are typically sophisticated entities/individuals who conduct detailed research and consider financial structure and viability prior to investing in these bonds. Because

bond buyers are adverse to risk if a project isn't credible or financially viable, there will be no market for the bonds. Commerce has a role in the financial structure through the interest rate and other terms and conditions of the bonds.

If bonds are issued and economic conditions change so as to jeopardize the success of a project, the risk lies with the bond holders and the developer. The state is not liable for repayment of the bonds. The only city that is responsible for debt service on an existing project is Topeka for the Heartland Park project because they pledged City revenues in addition to project generated sales tax.

Another policy which protects the state is that STAR bond proceeds are typically disbursed only as a developer invests its own funds so as to maintain the 50% minority partner requirement.

4. Do we have a practice of monitoring projects that are at risk?

We monitor all projects through the statutorily required reporting process and through periodic meetings and discussions with city officials and developers. Once bonds have been issued, there is little, if anything, the state can do to influence the success of a project.

5. Did Wizards/Youth Soccer Complex/Cerner meet requirements of the statute?

Cerner/Wizards project was authorized by KSA 12-17,164(d) which states ...

- The Secretary may approve a STAR bond project located in a STAR bond project district established by a city prior to May 1, 2003.
- The project plan approved by Governor Graves in 2001 contemplated an office complex and major multi-sport athletic facility.
- Project satisfied all known statutory requirements

I will be happy to stand for any questions.

Robert E. North

From: Robert E. North
Sent: Thursday, February 11, 2010 5:02 PM
To: 'Karin.Brownlee@senate.ks.gov'
Cc: William R. Thornton; Steve R. Kelly; Jeffrey J. Conway
Subject: SB 495 language

Senator Brownlee, the Secretary asked me to send the language which we have developed relative to the changes to 495 we discussed earlier in the week. The language we propose to be inserted in lieu of the language on page 2, lines 37 through 41 of the current bill is: "After the initial approval of a STAR bond project by the Secretary, then any addition, expansion or new project within such STAR bond project district shall be financed solely from the tax increment revenues, as defined by KSA 12-17,162(dd), generated from the addition, expansion or new project. This provision shall apply to all existing STAR bond projects."

We also believe a slight change to the definition of "tax increment" in KSA 12-17,162 (dd) is necessary to implement this intention. We propose adding the following in lieu of the current language in the second sentence of the definition: " For purposes of this subsection, the base year shall be the 12-month period immediately prior to the month in which a STAR bond project plan or addition or expansion of an existing project is approved by the secretary". The current definition doesn't work for certain projects because the districts were created before any retail existed in those districts meaning the "base" would be zero. We think these changes will address the issues raised in our meeting. Thank you for the opportunity to comment of the bill draft and please let us know of questions or concerns.

Bob North

Robert E. North
Chief Attorney
Department of Commerce Legal
1000 SW Jackson, Suite 100
Topeka, KS 66612-1354
Phone: (785) 296-1913

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2/12/2010

Senate Commerce Committee
Date: February 12, 2010
Attachment # 4-1

TESTIMONY OF JOHN C. PETERSON
COMMUNITY IMPROVEMENT COALITION
SENATE BILL 482
February 11, 2010

Madam Chair, Senators:

My name is John Peterson and I represent the Community Improvement Coalition, a coalition of interested parties from both the private and public sectors that championed and supported the passage of K.S.A. 2009 Supp. 12-6a26 through 12-6a36 (the "CID Act"). On behalf of the Coalition, I am testifying today in response to Senate Bill 482 which would make several amendments to the CID Act. At the outset, please know that we are not in opposition to most of the proposed amendments. However, after reviewing the Bill, the written testimony provided to your Committee (i.e. testimony from Dorothea Riley, Gary Anderson, the City of Overland Park, and the City of Manhattan), and the oral testimony given before your Committee on February 9, 2010, I would like to express our concern and opposition to four specific provisions being proposed.

I. Section 3(a) regarding the exclusion of the assessed value of the improvements when determining if the petition has been signed by owners collectively owning more than 55% by assessed value of the land area within the proposed district.

The primary reason we sought the adoption of the CID Act was to create an economic development tool that could be utilized for vertical construction costs, as such costs are explicitly forbidden under the Transportation Development District ("TDD") Act and the Tax Increment Financing ("TIF") Act. In allowing for vertical construction costs, CID financing will often be the preferred economic development tool for redevelopment projects, because in redevelopment projects the majority of the project's cost will be in the renovation/rehabilitation of existing buildings. With that as a backdrop, it seems counter-intuitive to ignore the value of the improvements, and to look solely at the value of the land when determining whether the 55% threshold has been met. It is these improvements that are often the reason to create the CID in the first place, and it is these improvements that will be generating the sales tax to finance the CID project costs.

Further, if as indicated by Ms. Riley, the purpose of this particular amendment to the CID Act is to provide clarification on how the property within the District is to be valued, this Amendment will not bring any clarification. You would still have the unresolved issue of how the City is to determine the assessed value of the land, and only the land, within the proposed district.

As an alternative approach to address this stated concern, we would propose that "excluding the assessed value of improvements" be deleted from Section 3(a) of the Bill, and that the following definition be added in Section 1: "Assessed value of the land area" means the assessed value of real property, which includes both the land and improvements, as reflected in the records of the county in which the property is located as of the last appraisal performed by the county appraisers office.

Senate Commerce Committee

Date: February 12, 2010

Attachment # 5-1

II. Section 3(g) regarding the addition of property to an existing district without notice or hearing through a petition signed by the owners of the land area proposed to be added to the district.

We concur with Mr. Anderson's and Jason Hilger's testimony that it would be beneficial to have the ability to enlarge a district through an expedited approval process. However, we take issue with the fact that the Bill does not require the approval of the petitioners of the original district.

When a district is established, a great deal of time is spent by both the petitioners and the applicable city in setting forth the project's budget and the sources of revenue that will be utilized to finance the cost of the project. When property is added to a district, it modifies the scope/cost of the project and impacts the financing for same (why would a property owner join a district other than to make improvements within its property). There needs to be a meeting of the minds between the original petitioners, the property owners wishing to join the district, and the city before property is added to the district, so that these items can be worked out and there is one cohesive plan for the district.

We would propose that Section 3(g) be modified to state that the petition seeking to enlarge the district not only be signed by the owners of all of the land area proposed to be added to the district, but also by all property owners that signed the petition creating the original district. We would also suggest adding the following language as the first phrase in the Section to make clear that this is not the only way to add property to a district under the act: "As an alternative to the other methods described in this act for modifying an existing district, ...".

III. Section 1(m)(9) regarding the definition of "project" including infrastructure improvements located outside the district.

As stated above, in large part the original intent of the CID Act was to provide a financing mechanism for vertical construction costs. There are other financing tools, such as TDD, available in Kansas to pay for infrastructure costs incurred outside of the district. In addition to the financing mechanisms existing under current law, the Bill looks to expand these tools by amending the TIF Act to cover costs incurred outside of the district. Given its focus of redevelopment and rehabilitation of existing developments, the CID Act should remain as it was originally approved – as a tool to provide financing for costs incurred within the boundaries of the district.

IV. Section 1(f) regarding the deletion of language capping a municipality's charge for administration costs at 5% of the total project cost.

The deleted language in this Section removes the cap on the amount charged by a municipality for "the services rendered by the municipality in the administration and supervision of such project". Stated plainly, these are purely administrative costs incurred by the municipality and would not include the cost of city financed public improvements. Administrative costs are ordinarily capped at a reasonable amount, and 5% of the total cost of the project is an appropriate amount.

Thank you for your consideration. If I may be of any assistance to the committee on this matter, please let me know.

Session of 2010

SENATE BILL No. 482

By Committee on Commerce

1-28

9 AN ACT concerning development and redevelopment of areas in the
10 state; defining terms; financing projects; assessments; amending K.S.A.
11 2009 Supp. 12-6a27, 12-6a28, 12-6a29, 12-6a30, 12-6a31, 12-6a36, 12-
12 1770a, 12-1774 and 12-17,142 and repealing the existing sections.

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

15 Section 1. K.S.A. 2009 Supp. 12-6a27 is hereby amended to read as
16 follows: 12-6a27. As used in this act, and amendments thereto, the fol-
17 lowing words and phrases shall have the following meanings unless a
18 different meaning clearly appears from the context:

19 (a) "Act" means the provisions of K.S.A. 2009 Supp. 12-6a26 through
20 12-6a36, and amendments thereto.

21 (b) "Assessments" means special assessments imposed and levied
22 pursuant to the provisions of this act.

23 (c) "Bonds" means special obligation bonds, special obligation notes,
24 full faith and credit bonds or full faith and credit notes payable solely
25 from the sources described in K.S.A. 2009 Supp. 12-6a33, and amend-
26 ments thereto, issued by a municipality in accordance with the provisions
27 of this act.

28 (d) "Community improvement district sales tax" means the tax au-
29 thorized by K.S.A. 2009 Supp. 12-6a31, and amendments thereto.

30 (e) "Consultant" means engineers, architects, planners, attorneys, fi-
31 nancial advisors and other persons deemed competent to advise and assist
32 in the planning, making and financing of projects.

33 (f) "Cost" means: (1) All costs necessarily incurred for the preparation
34 of preliminary reports, the preparation of plans and specifications, the
35 preparation and publication of notices of hearings, resolutions, ordinances
36 and other proceedings relating to the creation or administration of the
37 district or the issuance of bonds therefore, necessary fees and expenses
38 of consultants, interest accrued on borrowed money during the period of
39 construction and the amount of a reserve fund for the bonds, together
40 with the cost of land, materials, labor, and other lawful expenses incurred
41 in planning and doing any project and may include a charge of not to
42 exceed 5% of the total cost of the project or the cost of work done by the
43 municipality to reimburse the municipality for the services rendered by
44

Comment [Amend1]: Subsection I of testimony:

Insert new language: (b) "Assessed value of the land area" means the assessed value of real property, which includes both the land and improvements, as reflected in the records of the county in which the property is located as of the last appraisal performed by the county appraisers office.

Renumber remaining sections accordingly.

Comment [Amend2]: Subsection IV of testimony:

Restore the language "of not to exceed 5% of the total cost of the project or the cost of the work done" that is currently deleted in SB 482.

1 the municipality in the administration and supervision of such project by
2 its general officers *and the bonds*; and (2) in the case of property and
3 projects already owned by the municipality and previously financed by
4 the issuance of bonds, "cost" means costs authorized by K.S.A. 10-116a,
5 and amendments thereto.

6 (g) "District" means a community improvement district created pur-
7 suant to this act.

8 (h) "Governing body" means the governing body of a city or the board
9 of county commissioners of a county.

10 (i) "Municipality" means any city or county.

11 (j) "Newspaper" means the official newspaper of the municipality.

12 (k) "Owner" means the owner or owners of record, whether resident
13 or not, of real property within the district.

14 (l) "Pay-as-you-go financing" means a method of financing in which
15 the costs of a project are financed without notes or bonds, and the costs
16 of such project are thereafter reimbursed as moneys are deposited in the
17 district fund described in K.S.A. 2009 Supp. 12-6a34, and amendments
18 thereto.

19 (m) "Project" means:

20 (1) Any project within the district to acquire, improve, construct, de-
21 molish, remove, renovate, reconstruct, rehabilitate, maintain, restore, re-
22 place, renew, repair, install, relocate, furnish, equip or extend:

23 (A) Buildings, structures and facilities;

24 (B) sidewalks, streets, roads, interchanges, highway access roads, in-
25 tersections, alleys, parking lots, bridges, ramps, tunnels, overpasses and
26 underpasses, traffic signs and signals, utilities, pedestrian amenities, aban-
27 doned cemeteries, drainage systems, water systems, storm systems, sewer
28 systems, lift stations, underground gas, heating and electrical services and
29 connections located within or without the public right-of-way, water
30 mains and extensions and other site improvements;

31 (C) parking garages;

32 (D) streetscape, lighting, street light fixtures, street light connections,
33 street light facilities, benches or other seating furniture, trash receptacles,
34 marquees, awnings, canopies, walls and barriers;

35 (E) parks, lawns, trees and other landscape;

36 (F) communication and information booths, bus stops and other shel-
37 ters, stations, terminals, hangers, rest rooms and kiosks;

38 (G) paintings, murals, display cases, sculptures, fountains and other
39 cultural amenities;

40 (H) airports, railroads, light rail and other mass transit facilities; and

41 (I) lakes, dams, docks, wharfs, lakes or river ports, channels and lev-
42 ies, waterways and drainage conduits.

43 (2) Within the district, to operate or to contract for the provision of
44

1 music, news, child-care, or parking lots or garages, and buses, minibuses
2 or other modes of transportation;

3 (3) Within the district, to provide or contract for the provision of
4 security personnel, equipment or facilities for the protection of property
5 and persons;

6 (4) Within the district, to provide or contract for cleaning, mainte-
7 nance and other services to public or private property;

8 (5) Within the district, to produce and promote any tourism, recre-
9 ational or cultural activity or special event, including, but not limited to,
10 advertising, decoration of any public place in the district, promotion of
11 such activity and special events and furnishing music in any public place;

12 (6) Within the district, to support business activity and economic de-
13 velopment, including, but not limited to, the promotion of business ac-
14 tivity, development and retention and the recruitment of developers and
15 business;

16 (7) Within the district, to provide or support training programs for
17 employees of businesses; and

18 (8) To contract for or conduct economic impact, planning, marketing
19 or other studies.

20 Sec. 2. K.S.A. 2009 Supp. 12-6a28 is hereby amended to read as
21 follows: 12-6a28. (a) In addition to any other power provided by law and
22 as a complete alternative to all other methods provided by law, the gov-
23 erning body of any municipality may create a district as provided by this
24 act for the purpose of financing projects. Under this section, a munici-
25 pality may create a district, or may modify a district previously created
26 under this section, upon receipt of a petition that is signed by the owners
27 of all of the land area *property proposed to be liable for the assessments*
28 within the proposed district, and is both (1) seeking financing only by
29 assessments and (2) not seeking the issuance of full faith and credit bonds
30 pursuant to this act. The petition shall contain:

31 (A) The general nature of the proposed project;

32 (B) the estimated cost of the project;

33 (C) the proposed method of financing the project;

34 (D) the proposed amount and method of assessment;

35 (E) a map of the proposed district; and

36 (F) a legal description of the boundaries of the proposed district.

37 (b) Names may not be withdrawn from the petitions by the signers
38 thereof after the governing body commences consideration of the peti-
39 tions or later than seven days after the filing of such petition with the
40 clerk of the municipality, whichever occurs first. The petition shall contain
41 a notice that: (1) The names of the signers may not be withdrawn after
42 such a period of time; and (2) the signers consent to any assessments to
43 the extent described therein without regard to benefits conferred by the
44

1 project; and (3) the signers consent to the real location of assessments
2 against the remaining property in the district if any property originally
3 included in the district becomes exempt from assessments by operation of
4 law following the formation of the district.

5 (c) Upon filing of the petition pursuant to this section, the governing
6 body may proceed without notice or a hearing to make findings by res-
7 olution or ordinance as to the nature, advisability and estimated cost of
8 the project, the boundaries of the district and the amount and method of
9 assessment. Upon making such findings, the governing body by majority
10 vote may authorize the project in accordance with such findings as to the
11 advisability of the project. The resolution or ordinance shall be effective
12 upon publication once in the newspaper.

13 (d) The district boundaries and the method of financing for the pro-
14 ject shall not require that all property that is benefited by the project,
15 whether the benefited property is within or without the district, be in-
16 cluded in the district or be subject to an assessment.

17 (e) Following authorization of the project, the ordinance or resolution
18 establishing the district shall be submitted for recording in the office of
19 the register of deeds of the county in which the district is located.

20 Sec. 3. K.S.A. 2009 Supp. 12-6a29 is hereby amended to read as
21 follows: 12-6a29. (a) In addition to any other power provided by law and
22 as a complete alternative to all other methods provided by law, the gov-
23 erning body of any municipality may create a district as provided by this
24 act for the purpose of financing projects. As an alternative to the require-
25 ments and procedures described in K.S.A. 2009 Supp. 12-6a28, and
26 amendments thereto, under this section, a municipality may create a dis-
27 trict, or may modify a district previously created under this section, upon
28 receipt of a petition that is signed by the owners of more than 55% of
29 the land area within the proposed district, and signed by owners collec-
30 tively owning more than 55% by assessed value of the land area within
31 the proposed district ~~excluding the assessed value of improvements~~. Under
32 this section, the petition may be seeking financing in whole or in part by
33 a proposed community improvement district sales tax authorized by
34 K.S.A. 2009 Supp. 12-6a31, and amendments thereto, *seeking financing*
35 *in whole or in part by a proposed community improvement district sales*
36 *tax and special assessments*, or seeking the issuance of full faith and credit
37 bonds authorized by K.S.A. 2009 Supp. 12-6a36, and amendments
38 thereto, or both. The petition shall contain:

- 39 (1) The general nature of the proposed project;
- 40 (2) the estimated cost of the project;
- 41 (3) the proposed method of financing the project including, if appli-
42 cable, the issuance of full faith and credit bonds;
- 43 (4) the proposed amount and method of assessment, if any;
- 44

Comment [Amend3]: Subsection I of
testimony.
P. 4, L. 31, Delete newly added
language "excluding the assessed
value of improvements"

1 (5) the proposed amount of community improvement district sales
2 tax, if any;

3 (6) a map of the proposed district; and

4 (7) a legal description of the proposed district.

5 (b) Names may not be withdrawn from the petitions by the signers
6 thereof after the governing body commences consideration of the peti-
7 tions or later than seven days after the filing of such petition with the
8 clerk of the municipality, whichever occurs first. The petition shall contain
9 a notice that: (1) The names of the signers may not be withdrawn after
10 such a period of time; and (2) if applicable, the signers consent to any
11 assessments to the extent described therein without regard to benefits
12 conferred by the project; *and (3) if applicable, the signers consent to the*
13 *reallocation of any assessments against the remaining property in the*
14 *district if any property originally included in the district becomes exempt*
15 *from assessments by operation of law following the formation of the*
16 *district.*

17 (c) Upon filing of the petition pursuant to this section, the munic-
18 ipality shall adopt a resolution to give notice of a public hearing on the
19 advisability of creating or modifying the district. Such resolution shall be
20 published at least once each week for two consecutive weeks in the news-
21 paper and shall be sent by certified mail to all owners. The second pub-
22 lication of such resolution shall occur at least seven days prior to the date
23 of hearing and the certified mailed notice shall be sent at least ten days
24 prior to the date of hearing. Such resolution shall contain the following
25 information:

26 (1) The time and place of the hearing;

27 (2) the general nature of the proposed project;

28 (3) the estimated cost of the project;

29 (4) the proposed method of financing the project including, if appli-
30 cable, the issuance of full faith and credit bonds;

31 (5) the proposed amount of the community improvement district
32 sales tax, if any;

33 (6) the proposed amount and method of assessment, if any;

34 (7) a map of the proposed district; and

35 (8) a legal description of the proposed district.

36 (d) The hearing on the advisability of creating or modifying the dis-
37 trict may be adjourned from time to time. Following the hearing or any
38 continuation thereof, the governing body by majority vote may create the
39 district by adoption of an ordinance or resolution. Such ordinance or
40 resolution shall authorize the project, approve the estimated cost of the
41 project, contain the legal description of the district, contain a map of the
42 district, levy the community improvement district sales tax, if applicable,
43 approve the maximum amount and method of assessment, if applicable,
44

1 and approve the method of financing including, if applicable, the issuance
2 of full faith and credit bonds. Such ordinance or resolution shall become
3 effective upon publication once in the newspaper.

4 (e) The district boundaries and the method of financing for the pro-
5 ject shall not require that all property that is benefited by the project,
6 whether the benefited property is within or without the district, be in-
7 cluded in the district or be subject to an assessment or the community
8 improvement district sales tax.

9 (f) Following authorization of the project, the ordinance or resolution
10 establishing the district shall be submitted for recording in the office of
11 the register of deeds of the county in which the district is located.

12 *(g) Property may be added to an existing district upon receipt of a*
13 *petition signed by the owners of all of the land area proposed to be added*
14 *by the district, which petition contains a request to be added to the district*
15 *and the legal description of the land area proposed to be added to the*
16 *district. Upon filing of the petition for the district expansion, the governing*
17 *body may proceed without notice or a hearing to add the land area by*
18 *resolution or ordinance to the district. If the district expansion is approved,*
19 *the expansion petition shall be submitted for recording in the*
20 *office of the register of deeds of the county in which the district is located.*

21 Sec. 4. K.S.A. 2009 Supp. 12-6a30 is hereby amended to read as
22 follows: 12-6a30. (a) In addition to any other power provided by law and
23 as a complete alternative to all other methods provided by law, the gov-
24 erning body may make, or cause to be made, projects identified in the
25 petition submitted pursuant to either K.S.A. 2009 Supp. 12-6a28 or 12-
26 6a29, and amendments thereto, and may levy and collect special assess-
27 ments upon property in the district and provide for the payment of all or
28 any part of the cost of the project out of the proceeds of such special
29 assessments. If special assessments shall be levied to finance all or a por-
30 tion of the cost of a project, the municipality shall follow the procedures
31 in K.S.A. 12-6a01 et seq., and amendments thereto, to levy such assess-
32 ments except that no assessments may be levied against the municipality
33 at large and annual installments of the assessments may be levied as pro-
34 vided in subsection (b).

35 (b) If the method of financing for the project includes payment from
36 the sources described in subsections (c) or (e) of K.S.A. 2009 Supp. 12-
37 6a33, and amendments thereto, the ordinance or resolution of the mu-
38 nicipality that authorizes the levy of special assessments may provide that
39 the annual installments of such assessment for any year may be reduced
40 or eliminated to the extent that, prior to the date the municipality certifies
41 the tax levy of the municipality to the county clerk pursuant to K.S.A. 79-
42 1801, and amendments thereto, the municipality has received sufficient
43 funds from the sources described in subsections (c) and (e) of K.S.A. 2009
44

Comment [Amend4]: Section II of testimony.
P. 6, Line 12, Insert: "As an alternative to the other methods described in this act for modifying an existing district,"
Comment [Amend5]: Section II of testimony.
P. 6, Line 14, Insert: "and all property owners that signed the petition creating the original district"