

SESSION OF 2007

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2005**

As Agreed to April 27, 2007

Brief*

HB 2005 would amend the Center for Entrepreneurship Act by making technical corrections to the statute. In addition, the bill would place the statutes for sales tax and revenue (STAR) bonds and tax increment financing (TIF) in separate statutes in law.

Center For Entrepreneurship Act

The bill would replace "Community Entrepreneurship Fund" with the "Center for Entrepreneurship interest-bearing account." The Community Entrepreneurship Fund was abolished by enactment of 2006 SB 324.

Sales Tax and Revenue (STAR) Bonds

- The bill would remove the provisions that allow for a bioscience development district and project with approval of the Kansas Bioscience Authority.
- The bill would allow counties to initiate STAR bond applications and projects when the project is wholly outside the boundaries of a city. Under current law for projects wholly outside the boundaries of a city, the county commissioners must pass a resolution approving the project and the city files the applications and initiates the

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bonds for the project.

- The bill would require any city or county to pledge 100 percent of the incremental revenue received by the city or county from any local sales and use taxes, including the city's or county's share of any county sales tax (depending on which entity is issuing the bonds) except for the amount committed to other uses by election of voters or pledged to bond repayment prior to the approval of the project. Under current law, the pledge is 100 percent of the revenue received by the city and county sales taxes for the project, except for amounts committed to other uses by election of voters or pledged to bond repayment prior to the approval of the project.
- The bill would allow the Secretary of Commerce discretion to allow the use of state and local transient guest and use tax increments or franchise fees collected from utilities and other businesses using public rights-of-way within the project district to be pledged for principal and interest repayment of the bonds. Under current law, state and local transient guest and use taxes generated within the project district are pledged for principal and interest repayment of the bonds.
- The bill would require that when property is taken by a city or county with the eminent domain statute, the compensation would be 200 percent, as required by the eminent domain statute. Under current law, the city would be required to pay an additional 25 percent on top of the eminent domain requirement.
- The bill would require that if no ordinance or resolution is passed by the city or county within 30 days from the conclusion of the public hearing, then the STAR bond project district or bioscience development district would not be established. Current law is silent if a district is not adopted by the governing body of a city.
- The bill would allow the City of Manhattan Discovery Center STAR bond project and the Wyandotte County

Schlitterbahn STAR bond project to have the provisions of this Act applicable to such redevelopment project by the passage of an ordinance.

- The bill would allow the Wichita Waterwalk redevelopment project to be a STAR bond project provided that the application is submitted to the Secretary of Commerce on or before July 31, 2007 and the final decision letter is issued on or before November 1, 2007.
- The bill would extend the STAR bond statutes until July 1, 2012. Under current law, the STAR bond statutes sunset on July 1, 2007.
- The bill would make the following changes to definitions:
 - River walk canal facilities would mean a canal and related water features which flows through a major commercial entertainment and tourism area and facilities related or contiguous thereto, including, but not limited, to pedestrian walkways and promenades, landscaping and parking facilities. Under current law, the definition includes “located adjacent to a river.”
 - Tax increment would mean that portion of the revenue derived from state and local sales, use and transient guest tax imposed, collected from taxpayers doing business within the portion of a project district occupied by a STAR bond project that is in excess of the amount of base year revenue. The base year would be the 12-month period immediately prior to the month in which the STAR bond project district is established. The Department of Revenue would determine base year revenue by reference to the revenue collected during the base year from taxpayers doing business within the specific area in which a STAR bond project district is subsequently established. In addition, the local sales and use tax revenue sourced to another jurisdiction would not be included. Under current law, the statute has no definition of tax increment.

- Major multi-sport athletic complex would mean an area that is utilized for the training of athletes, the practice of athletic teams, the playing of athletic games or the hosting of events. Such project may include playing fields, parking lots and other developments including, grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor centers, signage and temporary hospitality facilities, but excluding hotels, motels, restaurants and retail facilities, not directly related to or necessary to the operation of such facility. Under current law, the definition ends after the second sentence above after “developments.”
- Museum facility means a separate newly-constructed museum building and facilities directly related and necessary to the operation thereof, including gift shops and restaurant facilities, but excluding hotels, motels, restaurants and retail facilities not directly related to or necessary to the operation of such facility. The museum facility must be owned and managed by the state, a city, county, other political subdivision of the state or a no-profit corporation, and may not be leased to any developer and could not be located within any retail or commercial building.
- STAR bond project would mean an approved project to implement a project plan for the development of the established STAR bond project district with:
 - At least a \$50.0 million capital investment and \$50.0 million in projected gross annual sales; or (current law)
 - For areas outside of metropolitan statistical areas, as defined by the federal office of management and budget, the secretary finds the project is an eligible area as defined in the bill and would be of regional or statewide importance; or (current law)

- Is a major tourism area as defined in the bill; or (current law)
- Is a major motorsports complex, as defined in the bill. (new)
- Project costs would be amended by adding multilevel parking structures devoted to parking only.
- Project costs also would be amended to include auto race track facility, major multi-sport athletic complex, museum facility, and major motorsports complex.
- Project costs would not include:
 - Costs incurred in connection with the construction of buildings or other structures. Under current law, costs incurred in connection with the construction of buildings or other structures, to be owned by or leased to a developer; however, the project costs shall include costs incurred in connection with the construction of buildings or other structures to be owned or leased to a developer which includes an auto race track facility;
 - Fees and commissions paid to developers, real estate agents, financial advisors or any other consultants who represent the developer or any other businesses considering locating in or located in a redevelopment district. Under current law, fees, commissions paid to real estate agents, financial advisors or any other consultants who represent the businesses considering locating in a STAR bond project district;
 - Moving expenses for employees of the businesses locating within the redevelopment district (current law);
 - Property taxes for businesses that locate in the redevelopment district (current law);

- Lobbying costs (current law);
 - Any bond origination fee charged by a city or county (current law);
 - Any personal property as defined in KSA 79-102 (current law); and
 - Travel, entertainment, and hospitality (new exclusion).
- A STAR bond project would be limited to no more than 50 percent of the financing of the total project costs. In addition, the STAR bond financing could only be used for allowable project costs.
 - The bill would allow the Major Motorsports Complex in Shawnee County to issue full faith and credit bonds for a STAR bond project.
 - The bill would allow any existing approved STAR bond project to apply to the Secretary of Commerce for additional STAR bond authority provided that the application include all information required to be submitted to the Secretary for the initial approval including an updated feasibility study and any other information that the Secretary requests of the city or county. In addition, the Secretary may approve up to 50 percent of the total cost of the new application for STAR bond financing.
 - The bill would require that the Secretary not approve any application for STAR bond project financing which is submitted by a city or county more than one year after the STAR bond project district in which the STAR bond project is located has been established.

Tax Increment Financing (TIF)

- The bill would add intermodal transportation areas to the list of eligible areas. Under current law, eligible area means a blighted area, conservation area, enterprise zone, major tourism area or a major commercial entertainment and tourism area or bioscience development area.
 - The bill would define an intermodal transportation area to mean an area of not less than 800 acres to be developed primarily to handle the transfer, storage and distribution of freight through railway and trucking operations.
 - The bill would permit redevelopment project costs for an intermodal transportation area to include the acquisition of land for, and the construction and installation of, publicly-owned infrastructure improvements which serve an intermodal transportation area but may be located outside of the district.
- The bill would define major multi-sport athletic complex as an athletic complex that is utilized for the training of athletes, the practice of athletic teams, the playing of athletic games or the hosting of events. Such project may include playing fields, parking lots and other developments including, grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor centers, signage and temporary hospitality facilities, but excluding hotels, motels, restaurants and retail facilities, not directly related to or necessary to the operation of such facility. Under current law, the definition ends after the second sentence above after “developments.”
- The bill would define museum facility as a separate newly-constructed museum building and facilities directly related and necessary to the operation, including gift shops and restaurant facilities, but excluding hotels, motels, restaurants and retail facilities not directly related to the operation of the facility. The museum facility would be

owned by the state, a city, county, other political subdivision of the state or a nonprofit corporation and could not be leased to any developer and could not be located within any retail or commercial building.

- The bill would allow any city issuing special obligation bonds or full faith and credit tax increment bonds to be refunded. Under current law, only special obligation bonds could be refunded.
- The bill would define feasibility study to mean:
 - A study which shows whether a redevelopment project's or bioscience development project's benefits and tax increment revenue and other available revenues are expected to exceed or be sufficient to pay for the redevelopment or bioscience development project costs; and (current law)
 - The effect, if any, the redevelopment project costs or bioscience development project would have on any outstanding special obligation bonds payable from sales tax revenues. (current law)
 - For a redevelopment project or bioscience project financed by bonds payable from sales tax revenues the feasibility study must also include:
 - A statement of how the taxes obtained from the project will contribute significantly to the economic development of the jurisdiction in which the project is located, (new)
 - A statement concerning whether a portion of the local sales and use taxes are pledged to other uses and are unavailable as revenue for the redevelopment project. If a portion of local sales and use taxes are so committed, the applicant would also include: the percentage of sales and use taxes collected that are so committed; and the date or dates on which the local sales and use

taxes pledged to other uses can be pledged for repayment of special obligation bonds; (current law) and

- An anticipated principal and interest payment schedule on the bonds.

- The bill would allow for project costs to include multi-level parking facilities. Under current law, only parking facilities are allowable.

- The bill would allow redevelopment project costs to include costs incurred in connection with the construction of buildings or other structures to be owned or leased to a developer which includes an auto race track facility or a multi-level parking facility. Under current law, the project costs include construction of buildings or other structures to be owned or leased to a developer which includes an auto race track facility.

- Project costs would be amended by adding an incubator project. Such costs also would include wet lab equipment including hoods, lab tables, heavy water equipment and all such other equipment found to be necessary or appropriate for a commercial incubator wet lab facility by the city or county in its resolution establishing such redevelopment district or a bioscience development district.

- Project costs also would be amended to include major multi-sport athletic complex and museum facility.
 - Project costs would not include:
 - Costs incurred in connection with the construction of buildings or other structures. Under current law, costs incurred in connection with the construction of buildings or other structures, to be owned by or leased to a developer; however, the project costs shall include costs incurred in connection with the

construction of buildings or other structures to be owned or leased to a developer which includes an auto race track facility;

- Fees and commissions paid to developers, real estate agents, financial advisors or any other consultants who represent the developer or any other businesses considering locating in or located in a redevelopment district. Under current law, fees, commissions paid to real estate agents, financial advisors or any other consultants who represent the businesses considering locating in a STAR bond project district;
 - Moving expenses for employees of the businesses locating within the redevelopment district (current law);
 - Property taxes for businesses that locate in the redevelopment district (current law);
 - Lobbying costs (current law);
 - Any bond origination fee charged by a city or county (current law);
 - Any personal property as defined in KSA 79-102 (current law); and
 - Travel, entertainment, and hospitality (new exclusion).
- The bill would amend the county's and the local school board's authority to prevent a TIF bond project by stating that the provisions that allow a county or school district to stop a project would not apply if the redevelopment project plan or the bioscience development project plan provides that ad valorem property tax revenues of the county or the school district levying taxes would not be adversely impacted.

- The bill would allow cities to issue special obligation bonds, with the approval of the Kansas Bioscience Authority, in a bioscience development district. Under current law, special obligation bonds can be issued only in a redevelopment district.
- The bill would allow any city that created a redevelopment district or a bioscience development district prior to the effective date of the Act could, by ordinance, elect to have the provisions of this Act applicable to the redevelopment district or bioscience development district.

Conference Committee Action

The Conference Committee adopted most of the Senate amendments to the STAR bond portion of the bill and included the following House amendments:

- Added “major motorsports complex” and “museum facility” under project costs;
- Added, in the definition of “STAR bond project”, major motorsports complex;
- Added a definition of “museum facility”;
- Allowed a major motorsports complex to use full faith and credit bonds for a STAR bond project;
- Deleted the provisions that no additional bonds may be issued after July 2, 2007, for any STAR bond project approved prior to July 1, 2007;
- Added a provision that would allow any existing approved STAR bond project to apply to the Secretary of Commerce for additional STAR bond authority provided that the application include all information required to be submitted to the Secretary for the initial approval including an updated feasibility study and any other information that the Secretary requests of the city or county. In addition, the

Secretary may approve up to 50 percent of the total cost of the new application for STAR bond financing;

- Added a provision that would require that the Secretary not approve any application for STAR bond project financing which is submitted by a city or county more than one year after the STAR bond project district in which the STAR bond project is located has been established;
- Added a provision to allow the Wichita Waterwalk redevelopment project to be a STAR bond project, provided the City of Wichita submit the application to the Secretary of Commerce on or before July 31, 2007 and the final decision letter is issued on or before November 1, 2007.

The Conference Committee adopted most of the Senate amendments to the TIF portion of the bill and included the following House amendments:

- Added the definition of a “museum facility”;
- Added “museum facility” and “major multi-sport athletic complex” under project costs;
- Added a statement of how the taxes obtained from the project will contribute significantly to the economic development of the jurisdiction in which the project is located in the feasibility study requirement;
- Revised the nonallowable project costs to include:
 - Fees and commissions paid to developers or any other developers, real estate agents, financial advisors or any other consultants who represent the developers or any other businesses locating in or located in a redevelopment district;
- Added that any city issuing special obligation bonds or full faith and credit tax increment bonds to refund all or part of such issue;

- Added that any city that created a redevelopment district or a bioscience development district prior to the effective date of this Act may be ordinance elect to have the provisions of this Act applicable to such redevelopment district or bioscience development district.

The Conference Committee adopted the Center for Entrepreneurship technical clean up amendments; and **deleted** the following provisions:

- The Kansas Investment Credit Act;
- The Kansas Jobs Credit Act;
- The High Performance Investment Program (HPIP) training amendments;
- The Kansas Angel Investor Tax Credit Act; and
- The State income tax exemption for spouses of individuals serving in the armed forces in combat zones.

Background

The Senate Committee on Commerce placed the provisions of Substitute for Substitute for SB 316 as recommended by the Senate into HB 2005 and made the following changes:

- Added a provision which would require that a STAR bond project would be limited to no more than 50 percent of the financing of the total project costs and STAR bond proceeds to only project cost;
- Removed bioscience development district and project provisions from the STAR bond statutes;
- Removed the limitation on county and school district ability to veto TIF districts;

- Added the Kansas Investment Credit Act, the Kansas Jobs Credit Act, and amend the High Performance Incentive Program Education and Training Program statute. In addition, added NAICS code 811 (computer repair and maintenance) to the list of industries that could qualify for the credits;
- Added provisions that include the Kansas Angel Investor Tax Credit Act, including expanding the definition of “angel investor” to include an owner of a permitted entity investor, and referencing the specific definition of “bioscience business” found in the Kansas Bioscience Authority Act; and provided a state income tax exemption for income earned by spouses of individuals serving in the armed forces in combat zones during the time of service.

The original bill was recommended by the Joint Committee on Economic Development during the interim when the Revisor pointed out the need for the technical cleanup in the statute. At the hearing on the bill, no one appeared in support or in opposition to the bill.

The Senate Committee of the Whole amended the bill to include the angel investor and military spouse income tax provisions. These two provisions would be expected to reduce receipts as follows:

(\$ in millions)

	<u>Investment Jobs and Training Credit</u>	<u>Angel Investor</u>	<u>Military Spouses</u>	<u>Total</u>
FY 2008	(\$2.8)	(\$2.0)	(\$3.0)	(\$7.8)
FY 2009	(\$7.6)	(\$4.0)	(\$3.2)	(\$14.8)
FY 2010	(\$7.6)	(\$4.0)	(\$3.4)	(\$15.0)
FY 2011	(\$7.6)	(\$4.0)	(\$3.6)	(\$15.2)
FY 2012	(\$7.6)	(\$4.0)	(\$3.8)	(\$15.4)
5-year total	(\$33.2)	(\$18.0)	(\$17.0)	(\$68.2)

Please note that all of the above provisions have been removed from the bill by the Conference Committee.

The Conference Committee had testimony from the City Manager of Wichita, Kansas that the state sales tax loss to the state due to the Wichita Waterwalk STAR bond project would be \$1.0 million annually until the bonds were repaid.

STAR bonds; TIF