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Authority

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Insurance Trust Fund

Reed Holwegner  
Principal Research Analyst  
785-296-3181  
Reed.Holwegner@klrd.ks.gov

### Commerce, Labor, and Economic Development

#### B-1 Department of Commerce

The Kansas Department of Commerce is the cabinet agency concerned with economic development. Under the Office of the Secretary of Commerce, there are two divisions and two commissions: the Division of Business and Community Development, the Division of Workforce Services, the Athletic Commission, and the Creative Arts Industries Commission.

#### Business and Community Development Division

In 2012, the Department of Commerce combined the Business, Rural, and Trade Development divisions into the Business and Community Development Division (Division). The Division works to improve the Kansas economy through the creation and retention of jobs and capital investment, as well as to improve the quality of life in communities, particularly in rural areas. The Division is composed of seven program sections: Business and Community Development Assistance, Business and Community Finance and Incentives, Business Recruitment and Relocation, Rural Opportunity Zones, Minority and Women Business Development, the Innovation Growth Program, and Trade Development.

#### ***Business and Community Development Assistance, Business and Community Finance and Incentives***

Business and Community Development Assistance determines the eligibility of various tax credits and loan funds for business clients. Commerce staff may act as a liaison with other state agencies, such as the Departments of Revenue, Labor, or Health and Environment, to ensure licensing requirements are met. Rural communities are assisted in developing community-driven strategic plans to attract businesses, workers, and investment. Financial and planning assistance may come from the following programs.

**The Kansas Downtown Redevelopment Act.** This act encourages entrepreneurs to locate and invest their businesses in central business districts or distressed neighborhoods. Property tax relief is offered in available areas designated by local governments and, subsequently, are reviewed and approved by the Department of Commerce.

**Kansas PRIDE.** This is a community-initiated effort that helps local leaders prepare for and manage change, addressing such issues as planning, community services, and enrichment; the Department of Commerce determines the eligibility for several financial incentives and tax credits. The Department then monitors the compliance of businesses and individuals for the duration of the incentive or tax credit agreement. (The Department also administers the Sales Tax and Revenue (STAR) Bond Program, which is discussed briefly in this article.) The purposes and criteria for several financial incentives are outlined below.

**Kansas Certified Development Companies (CDCs).** These companies are not-for-profit corporations that contribute to the economic development of their communities or regions. CDCs work with the U.S. Small Business Administration and private lenders to provide financing to small businesses. The 12 CDCs in Kansas can be found at [www.kacdc.com](http://www.kacdc.com). CDCs' loan packages often contain multiple sources of project funding, providing the small business customer with an optimal combination of rates and terms.

**Community Development Block Grant (CDBG) Program.** This program distributes federal funds to Kansas cities and counties looking to improve their communities. To receive funds, a project must meet at least one of the following federally mandated criteria:

- Benefits low- and moderate-income individuals;
- Removes or prevents slum or blight conditions; or
- Eliminates an urgent need created by a disaster when local funds are unavailable.

**Kansas Community Service Program (CSP).** This program gives not-for-profit organizations a way to improve capital fundraising drives for community service, crime prevention, or health care projects. Tax credit awards are distributed through a competitive application process. Based on the scope and cost of the proposed project, applicants may request up to \$250,000 in tax

credits. Applicant organizations in rural areas, defined as having less than 15,000 in population, are eligible for a 70 percent credit. Applicant organizations in non-rural areas are eligible for a 50 percent credit.

**Energy incentives.** Various incentives are offered to Kansas businesses and producers engaged in conventional and renewable energy production.

**High Performance Incentive Program (HPIP).** This program provides tax incentives to employers that commit to pay above-average wages and enhance their workers' skill development. HPIP offers employers four potential benefits:

- A 10 percent income tax credit for eligible capital investment at a company's facility that exceeds \$50,000—or \$1.0 million in the 5 metro counties of Douglas, Johnson, Sedgwick, Shawnee, and Wyandotte. The tax credit may be carried forward and used in any of the next 16 years in which the facility re-qualifies for HPIP;
- A sales tax exemption to use in conjunction with the company's capital investment at its facility;
- A training tax credit, worth up to \$50,000; and
- Priority consideration for access to other business assistance programs.

**Individual Development Account (IDA).** The IDA promotes self-sufficiency for low-income Kansans in a matched savings program. The tax credits, approximately \$500,000 awarded to selected community-based organizations, are used to leverage donations, which will serve as a match for savings in an IDA. Savings accrued in IDAs may be used for home ownership, residence repairs, business capitalization, and post-secondary education.

**Kansas Industrial Training and Retraining Programs (KIT/KIR).** These programs assist employers with training workers, whether on-site or in a classroom. The KIT Program may be used to assist firms involved in both pre-

employment and on-the-job training, giving firms and prospective employees an opportunity to evaluate one another before making employment commitments. The KIR Program helps companies that are likely to terminate employees because of obsolete or inadequate job skills and knowledge. Eligible industries include basic enterprises that are incorporating new technology into their operations or diversifying production. At least one current employee must be trained to qualify for assistance.

**Kansas Partnership Fund (Fund).** Initially funded by legislative appropriation, the Fund provides low-interest loans to cities and counties for infrastructure improvements that support Kansas basic enterprises, including manufacturing, mining, agriculture, and interstate transportation. Wholesale trade, financial services, business services, and tourism activities, if primarily undertaken for out-of-state markets, also are considered to be Kansas basic industries, as well as research and development of new products or technologies. All city and county units of government, regardless of size, are eligible to apply for loans.

Other sources of income for this revolving loan fund are the sale of revenue bonds through the Kansas Development Finance Authority (KDFA) and contributions by public or private entities. Loan interest rates are adjustable, indexed annually to either the federal discount rate or the average interest rate earned by the Economic Development Initiatives Fund during the previous year, whichever is greater.

**Private Activity Bonds (PABs).** These bonds are federally tax-exempt bonds. The types of bonds that qualify for tax-exempt status include:

- Exempt facility bonds;
- Qualified mortgage bonds;
- Qualified veterans' mortgage bonds;
- Qualified small issue bonds;
- Qualified student loan bonds;
- Qualified redevelopment bonds; and
- Qualified 501(c)(3) bonds.

Under the federal volume cap for 2018, Kansas has a bond allocation of \$311.4 million. The primary demand for bond allocation in Kansas has been for the issuance of exempt facility bonds, mortgage revenue bonds, and qualified small issue bonds, sometimes called industrial revenue bonds (IRBs). Exempt facility bonds are used to finance public infrastructure facilities pertaining to mass commuting, water, sewage, solid, or hazardous waste; heating or cooling utilities; and qualified residential rental projects. Mortgage revenue bonds (MRBs) and mortgage credit certificates (MCCs) are issued to provide first-time home buyers an enhanced opportunity to finance the purchase of a new home. Persons meeting certain financial and demographic guidelines are able to achieve substantial savings over the life of a home mortgage through the use of these programs. Kansas legislation allows cities, counties, or the KDFA to issue IRBs for industrial or other authorized purposes, such as to purchase land; pay the cost of constructing and equipping new facilities; or to purchase, remodel, or expand existing facilities.

**Promoting Employment Across Kansas Act (PEAK).** This act gives qualified companies an incentive to locate or expand business operations and jobs in Kansas by allowing them to retain Kansas payroll withholding. A company must commit to creating five new jobs in non-metropolitan counties—or ten new jobs in the metropolitan counties of Douglas, Johnson, Leavenworth, Sedgwick, Shawnee, and Wyandotte—over a two-year period. The company must also pay wages for the PEAK jobs that meet or exceed the county median or average wage or North American Industry Classification System (NAICS) average wage for that industry. Qualified applicants may include for-profit companies in eligible NAICS codes, as well as headquarters for not-for-profit organizations. Applicants must offer adequate health insurance coverage, as defined by KAR 110-21-1, to their full-time employees and pay at least 50 percent of the premium.

Depending on the number of PEAK jobs to be filled in Kansas and their wage levels, the Secretary of Commerce may approve benefit periods for a maximum of ten years. Companies that had

entered into the program prior to January 1, 2013, may request an extension of the benefit period for up to two years from the Secretary of Commerce. During the benefit period, participating PEAK companies may retain up to 95 percent of the payroll withholding tax of PEAK-eligible jobs.

Caps are applied on the aggregate amounts of benefits received by companies that are expanding or relocating in Kansas. In FY 2019 and subsequent fiscal years, the cap on benefits is \$42.0 million. As of July 1, 2018, PEAK benefits may not be used for retaining existing jobs.

**Small Communities Improvement Program (SCIP).** This program sets aside \$500,000 annually for small communities that are undertaking improvement projects through self-help and volunteerism. The competitive program is designed to assist communities with populations of 5,000 or less that are ineligible for other assistance and may not have the capacity to provide matching funds. The maximum award for a single project is \$125,000. Self-help and volunteerism must result in savings of at least 40 percent of the project's marketplace price. Communities must validate the impact the project will have on the quality of life for their residents.

**Sales Tax and Revenue (STAR) Bonds.** STAR Bonds allow city or county governments, subject to approval from the Department of Commerce, to issue special revenue bonds for the financing of the infrastructure necessary for a major economic development project. A form of tax increment financing (TIF), the proceeds from the incremental increase of sales tax revenue within the STAR Bond district, including state sales tax and transient guest tax revenues, may be used to pay off the bonds. (See Briefing Book article [B-2 Statewide STAR Bond Authority](#) for more details.)

**State Small Business Credit Initiative (SSBCI).** This initiative provides federal matching funds to eligible businesses through a network of partners. The Kansas Capital Multiplier Loan Fund provides businesses with matching loans, up to 9.0 percent of the private capital invested. Loans may range from \$25,000 to \$500,000. The Fund provides businesses with matching equity, up to 9.0 percent of the private equity invested. Eligible

businesses include technology and bioscience companies working with a state entrepreneurial center or a university center of excellence. Rural businesses, businesses in distressed urban areas, or businesses with local angel investment may qualify. Equity investment may range from \$25,000 to \$250,000. Additional information may be found at [www.NetWorkKansas.com](http://www.NetWorkKansas.com).

**Work Opportunity Tax Credit (WOTC).** This tax credit encourages private employers to hire within one of several targeted groups of job candidates who traditionally face barriers to employment, such as public assistance recipients, unemployed or disabled veterans, or ex-felons. The tax credit reduces an employer's federal income tax liability by as much as \$2,400 per qualified new worker in the first year of employment, with employers hiring disabled veterans saving up to \$9,600 in the first year of employment.

**Job Creation Program Fund (JCPF).** This fund, administered by the Secretary of Commerce in consultation with the Secretary of Revenue and the Governor, aims to promote job creation and economic development by funding projects related to the major expansion of an existing commercial enterprise, the relocation to Kansas of a major employer, the award of a significant grant that has a financial matching requirement, the potential departure from the state or the substantial reduction of an existing employer's operations, training activities, the potential closure or substantial reduction of a major state or federal institution, projects in counties with at least a 10 percent decline in population over the last decade, or other unique economic development opportunities.

The 2.0 percent of withholding tax receipts, which previously was dedicated to the Investments in Major Projects and Comprehensive Training (IMPACT) Program, is deposited in the JCPF, provided the current debt services, including administrative expenses, of the IMPACT Program have been met. The Secretary of Revenue annually estimates the amount of net tax savings realized under the provisions of 2011 House Sub. for SB 196, and that amount is deposited in the JCPF. The Secretary of Commerce is required to annually report to legislative leadership

and the tax and commerce committees on the expenditures from the Fund.

### ***Business Recruitment and Relocation***

The Business Recruitment and Relocation Section, working with site consultants and out-of-state businesses, promotes Kansas as a locale for businesses to move a portion or all of their operations. In each of five regions of the country (the East Coast, the Great Lakes, the Mid-Central, Missouri, and the West Coast), a regional office engages in recruitment activities, including identifying client needs, possible site locations, and available state and local resources. Emphasis is placed upon attracting businesses, both domestic and foreign, involved in the industries of alternative energy, distribution, bioscience, and advanced manufacturing.

### ***Rural Opportunity Zones***

Started in 2011, Rural Opportunity Zones (ROZs) are designed to reverse population declines in rural areas of Kansas. Statute designates 77 counties as ROZs, including Allen, Anderson, Barber, Bourbon, Brown, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Comanche, Decatur, Doniphan, Edwards, Elk, Ellsworth, Gove, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Haskell, Hodgeman, Jackson, Jewell, Kearny, Kingman, Kiowa, Labette, Lane, Lincoln, Linn, Logan, Marion, Marshall, Meade, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osborne, Ottawa, Pawnee, Phillips, Pratt, Rawlins, Republic, Rice, Rooks, Rush, Russell, Scott, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Trego, Thomas, Wabaunsee, Wallace, Washington, Wichita, Wilson, and Woodson.

The program has two incentives:

- A state income tax exemption for up to five years to individuals who move to a ROZ county from outside the state. Individuals must not have lived in Kansas for the past five years nor have an income of more than \$10,000

per year over the past five years from a Kansas source; and

- Student loan forgiveness, up to \$3,000 per year with a \$15,000 maximum benefit, for individuals who graduate from an accredited post-secondary institution and move to a ROZ county. The incentive is a county-state partnership, and counties must choose to participate.

As of 2018, 75 county governments or employers in the ROZ counties have joined the student loan forgiveness program. The income tax waiver is solely available in Chase and Wabaunsee counties.

### ***Minority and Women Business Development***

The Office of Minority and Women Business Development encourages the development of minority- and women-owned businesses. Information and referrals are provided in the areas of procurement, contracting and subcontracting, financing, and business management. The Office partners with other business advocates to sponsor business education workshops and seminars.

**Kansas Statewide Certification Program.** The Office also administers the Kansas Statewide Certification Program in which women and minority businesses can be certified as a Disadvantaged Business Enterprise, Minority Business Enterprise, or Women Business Enterprise. Certification may increase opportunities for those businesses to gain contracts and subcontracts from governmental and private entities committed to the inclusion of less advantaged persons. Program services are free.

### ***Innovation Growth Program***

The Innovation Growth Program provides Kansas entrepreneurs and technology companies with technical expertise, research, and other services designed to help those businesses grow and succeed. The Program, comprised of elements of the former Kansas Technology Enterprise

Corporation (KTEC), offers expertise in four basic areas.

**Research to Support Industry.** University-based centers of excellence provide access to research and technical expertise for companies and entrepreneurs seeking to develop new products or solve problems with new technologies.

**Entrepreneurial Centers.** These business incubators provide services to technology companies in their early-stage development phase. Services range from preparing entrepreneurs to approach capital partners, to forming joint ventures and new companies around technologies, to accessing expertise housed at state universities.

**Mid-America Manufacturing Technology Center (MAMTEC).** MAMTEC works to increase the competitive position of small- and mid-sized Kansas manufacturers by helping to improve their productivity and expand their capacity.

**Angel Investment Resources.** Regional networks of angel investors and angel tax credits help to meet the financing needs of Kansas entrepreneurs by serving as a catalyst to stimulate the flow of private investment capital in promising early stage ventures. Angel networks identify and fund promising start-up business opportunities. Kansas income tax credits are available to individuals who provide seed-capital financing for emerging Kansas businesses engaged in the development, implementation, and commercialization of innovative technologies, products, and services.

### ***Trade Development***

The Trade Development Section works to increase the international sales of goods and services produced in Kansas. Private companies can receive counseling regarding exports, marketing, international regulations, and searches for agents or distributors. International trade representatives are utilized on a contractual basis to provide contacts in Brazil, China, India, Japan, Mexico, South Korea, and Taiwan, and other countries in Asia, Europe, and Latin America. Kansas vendors are recruited to attend international trade shows.

The Section organizes trade missions and hosts foreign delegations when they visit Kansas.

## **Division of Workforce Services**

### **KANSASWORKS**

The Department of Commerce is responsible for the State's workforce system called KANSASWORKS. Established through the federal Workforce Investment Act (WIA) of 1998 and Gubernatorial Executive Order No. 01-06, KANSASWORKS links businesses and employers with job seekers and educational institutions that provide training. KANSASWORKS' goal is to provide persons looking for work a "one-stop shop" to find employment, training, and information about Unemployment Insurance benefits. Workforce Services determines employers' eligibility for several of the employee-related incentives and training programs previously mentioned in this article. If a business faces mass layoffs, a rapid response team can be sent out to the employer's facility to provide job counseling for soon-to-be displaced workers. The Division also administers the following programs.

**Business Executive and Industry Liaisons (BEILs).** Liaisons work closely with the Business Development Division to identify the workforce demands of companies either planning to expand or locate to Kansas.

### ***Federal Bonding Program***

This program provides individual fidelity bonds to employers for applicants who are denied coverage because of a criminal record, history of chemical abuse, lack of employment history, or dishonorable discharge. Each bond's coverage is for \$5,000 for six months. The program is free to employers and job applicants.

### ***Older Kansans Employment Program (OKEP)***

This program assists Kansans over 55 years of age with employment placement services.

### ***Kansas Registered Apprenticeship***

This program combines classroom instruction with on-the-job training. Apprenticeships may last one to six years, depending upon the occupation and the industry's standards. A specialized form of Apprenticeship Program is the Early Childhood Association Apprenticeship Program, which, in partnership with community colleges, certifies people working in childcare and early education.

### ***Incumbent Worker Training Program***

Financed by WIA, this program provides grants to employers for training expenses associated with avoidance of mass layoff, the development of a best practice model, industries endorsed by a local workforce board, or a significant occupational demand.

### ***Foreign Labor Certification***

This certification qualifies an employer to hire foreign or alien workers if an employer cannot find qualified U.S. workers available to fill vacancies.

Workforce Services works with an advisory State Board, which is appointed by the Governor and composed of 19 members, including employers, human resources specialists, higher education administrators, and state officials. At the local level, the state is divided into five areas. Each area has a local board of directors with headquarters in Great Bend (Area I), Topeka (Area II), Kansas City (Area III), Wichita (Area IV), and Pittsburg (Area V). The five areas provide workforce services at 28 workforce centers across the state.

### ***Agency Funding from the Economic Development Initiatives Fund (EDIF)***

The statutes governing the EDIF provide that it shall be used to finance programs "supporting and enhancing the existing economic foundation of the state and fostering growth . . . to the state's economic foundation." With the exception of a statutory \$2.0 million transfer to the State Water Plan Fund, the Legislature annually appropriates the EDIF for individual projects and programs

deemed to support and enhance the State's economic foundation.

The EDIF is funded through the State Gaming Revenue Fund (SGRF). A portion of state revenue from both the Kansas Lottery and parimutuel wagering is transferred to the SGRF. That fund is used essentially as a holding fund from which further transfers are made on a monthly basis. No more than \$50.0 million may be credited to the SGRF in any fiscal year. Amounts in excess of \$50.0 million are credited to the State General Fund.

The Kansas Athletic Commission and the Kansas Creative Arts Industries Commission, both statutorily created, are organized within the Department of Commerce.

### **Kansas Athletic Commission**

This commission, composed of five members appointed by the Governor and serving four-year terms, administers the laws governing wrestling and regulated sports, including professional boxing, kickboxing, and mixed martial arts. The Commission, in cooperation with the Boxing Commissioner, works to ensure the health and safety of contestants, fair and competitive bouts, and the protection of the general public. Regulatory responsibilities include the licensing and supervision of referees, judges, physicians, managers, contestants, timekeepers, seconds, promoters, and matchmakers for contests as well as event oversight.

### **Kansas Creative Arts Industries Commission**

This commission, composed of 11 members appointed by the Governor and legislative leadership, promotes the growth of creative industries in Kansas. This is pursued through two grant programs: the Strategic Investment Program, which supports the development and operation of art organizations, and the Arts Integration Program, which facilitates

the involvement of the arts in education and community development goals.

For more information, please contact:

Reed Holwegner, Principal Research Analyst  
[Reed.Holwegner@klrd.ks.gov](mailto:Reed.Holwegner@klrd.ks.gov)

Dylan Dear, Managing Fiscal Analyst  
[Dylan.Dear@klrd.ks.gov](mailto:Dylan.Dear@klrd.ks.gov)

Edward Penner, Principal Research Analyst  
[Edward.Penner@klrd.ks.gov](mailto:Edward.Penner@klrd.ks.gov)

Kansas Legislative Research Department  
300 SW 10th Ave., Room 68-West, Statehouse  
Topeka, KS 66612  
Phone: (785) 296-3181

## Commerce, Labor, and Economic Development

### B-2 Statewide STAR Bond Authority

#### STAR Bond Q&A

##### *What is a STAR Bond?*

A STAR Bond is a tax increment financing (TIF) program that allows city governments to issue special revenue bonds, which are repaid by all of the revenues received by the city or county from incremental increases in transient guest taxes, local sales taxes, and use taxes collected from taxpayers doing business within the designated portion of the city's "sales tax and revenue" (STAR) bond district. All or a portion of the increased state sales and use tax revenues also may be used to repay the bonds, which typically have a 20-year repayment period.

##### *What type of project can use STAR Bond financing?*

- A project with at least a \$50.0 million capital investment and \$50.0 million in projected gross annual sales revenues;
- A project located outside of a metropolitan statistical area that has been found by the Secretary of Commerce (Secretary) to be in an eligible area under Tax Increment Financing law and of regional or statewide importance;
- A major commercial entertainment and tourism area as determined by the Secretary;
- Auto racetrack facilities, multi-sport athletic complexes, river walk canal facilities, historic theaters, the Manhattan Discovery Center, the Wyandotte County Schlitterbahn Project, museum facilities, or a major motorsports complex in Shawnee County; or
- A project involving buildings 65 years old or older and include contiguous lots that are vacant or condemned.

##### *Is any project specifically excluded from use of STAR Bonds?*

Projects including a gaming casino are specifically excluded from use of STAR Bonds.

### **How does the STAR Bond project work?**

The law allows the governing body of a city to establish one or more special bond projects in any area in the city or outside a city's boundaries with the written approval of the county commission. However, each special bond project must be approved by the Secretary based on the required feasibility study prior to utilizing STAR Bonds.

The city also is required to propose a project plan, hold a hearing on the plan, and adopt the project plan. One mandated component of the project plan is a marketing study conducted to examine the impact of the special bond project on similar businesses in the projected market area.

Finally, the city must complete a feasibility study, which includes:

- Whether a project's revenue and tax increment revenue and other available revenues are expected to exceed or be sufficient to pay for the project costs;
- The effect, if any, the project will have on any outstanding special obligation bonds payable from the revenues used to fund the project;
- A statement of how the jobs and taxes obtained from the project will contribute significantly to the economic development of the state and region;
- Visitation expectations, the unique quality of the project, an economic impact study, and integration and collaboration with other resources or businesses;
- The quality of service and experience provided as measured against national consumer standards for the specific target market;
- Project accountability, measured according to best industry practices;
- The expected return on state and local investment that the project is anticipated to produce;
- 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 project

and, if the revenues are so committed, a detailed explanation of the commitment and the effect; and

- An anticipated principal and interest payment schedule on the bond issue.

The Secretary places a limit on the total amount of STAR Bonds that may be issued for any project.

A city also is required to have a certified public accountant conduct an annual audit of each project. STAR Bond districts are prohibited from including real property that was part of another project or district unless that project or district has been approved by the Secretary prior to March 1, 2016. A district is limited to those areas being developed and any areas reasonably anticipated to directly benefit the project. However, STAR Bond districts created and approved in 2017 or later must exclude tax increment revenues derived from retail automobile dealers. If a STAR Bond district adds area, the base tax year for the newly annexed area will be the 12-month period immediately prior to the month in which the new area is added to the district.

### **What are the constraints placed on the developer?**

The developer of a special bond project is required to commence work on the project within two years from the date of adoption of the project plan. If the developer does not commence work on the project within the two-year period, funding for the project ceases and the developer has one year to appeal to the Secretary for re-approval of the project. If the project is re-approved, the two-year period for commencement applies.

Also, the law requires that Kansas residents be given priority consideration for employment in construction projects located in a special bond project area.

### **What are eligible uses for STAR Bond proceeds?**

- Purchase of real property, which may be acquired by means of eminent domain;

- Relocation assistance for property owners moving out of the project district;
- Site preparation work, including relocations of utilities;
- Drainage conduits, channels, levees, and river walk canal facilities;
- Parking facilities, including multi-level parking structures devoted to parking only;
- Street improvements;
- Street light fixtures, connection, and facilities;
- Utilities located within the public right-of-way;
- Landscaping, fountains, and decorations;
- Sidewalks and pedestrian underpasses or overpasses;
- Drives and driveway approaches located within the public right-of-way of an auto racetrack facility, major multi-sport athletic complex, museum facility, and major motorsports complex; and
- Up to 1.0 percent of the bond proceeds, but not exceeding \$200,000, plus any actual administrative costs incurred by the Department of Commerce (Department) that exceed the fee.

***What are ineligible uses for the STAR Bond proceeds?***

Costs incurred in connection with the construction of buildings or other structures are not eligible. In addition, proceeds are not available for fees and commissions paid to real estate agents, financial advisors, or any other consultants who represent the developer or any other businesses considering locating or located in a redevelopment district; salaries for local government employees; moving expenses for employees of the businesses locating within the redevelopment district; property taxes for businesses that locate in the redevelopment district; lobbying costs; bond origination fees paid to the city; any personal property as defined in KSA 79-102; or travel, entertainment, and hospitality.

**Other Important Information**

All cities that have projects financed with STAR Bonds are to prepare and submit an annual report to the Secretary by October 1 of each year. The Department compiles an annual report on all STAR Bond projects and submits them to the Governor; the Senate Committee on Commerce; and the House Committee on Commerce, Labor and Economic Development by January 31 of each year. For the past three calendar years and year to date, each STAR Bond district must report the following information:

- The amount of sales and use tax collected;
- The amount of bond payments and other expenses incurred;
- The amount of bonds issued and the balance of bonds, by district and by project;
- The remaining cash balance in the project to pay for future debt service and other permissible expenses;
- Any new income-producing properties brought into the district, identifying the base amount of revenue the State would retain and the incremental amount that goes to the district;
- The amount of bonds issued to repay private investors, identifying the share of the indebtedness financed by private and public financing;
- The percentages of state and local effort committed to the district; and
- The number of visitors to the district, identifying the number of in-state and out-of-state visitors.

Reauthorized in 2017, the authority to issue debt pursuant to the STAR Bond Financing Act will sunset on July 1, 2020, unless continued by an act of the Legislature.

For more information, please contact:

Reed Holwegner, Principal Research Analyst  
[Reed.Holwegner@klrd.ks.gov](mailto:Reed.Holwegner@klrd.ks.gov)

Dylan Dear, Managing Fiscal Analyst  
[Dylan.Dear@klrd.ks.gov](mailto:Dylan.Dear@klrd.ks.gov)

Edward Penner, Principal Research Analyst  
[Edward.Penner@klrd.ks.gov](mailto:Edward.Penner@klrd.ks.gov)

Kansas Legislative Research Department  
300 SW 10th Ave., Room 68-West, Statehouse  
Topeka, KS 66612  
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## **Commerce, Labor, and Economic Development**

### **B-3 Unemployment Insurance Trust Fund**

#### **Overview**

The Kansas Unemployment Insurance (UI) Trust Fund was created in 1937 as the state counterpart to the Federal Unemployment Insurance Trust Fund. The UI Trust Fund provides income stability for Kansas citizens during times of economic difficulty while stimulating economic activity. UI is a federal program managed by the State. Changes to Employment Security Law cannot take effect until approved by the U.S. Department of Labor. The Legislature has modified the provisions of the Kansas Employment Security Law several times over the past two decades.

#### **State Fund Contributions**

Contributions to the UI Trust Fund are made by Kansas employers and are governed by KSA 2018 Supp. 44-710a. The UI Trust Fund is designed to be self-correcting during economic cycles. Moneys in the UI Trust Fund accumulate during periods of economic expansion; benefits are distributed during economic recessions.

Unemployment rates increase when contribution rates increase, while contribution rates decline during better economic times. The State charges employers a fee on the first \$14,000 of wages paid to each employee. This is called the taxable wage base. (In rate year 2016, the taxable wage base increased from \$12,000 to \$14,000.) The amount collected from employers varies depending upon the presence or absence of several factors or conditions, such as employer classifications. Employers in Kansas can be classified as a new employer, an entering and expanding employer, a positive balance employer, or a negative balance employer.

New employers in the construction industry with less than three years of employment history are charged a fee amount equal to 6.0 percent of their taxable wage base. For new employers who are not in the construction industry and have fewer than 24 months of payroll experience, the contribution rate is 2.7 percent.

After receiving notice from the Kansas Department of Labor regarding contributions owed for the upcoming rate year, a new employer has 30 days to request an alternative rate be applied

if the employer can provide information that the employer's operation has been in existence in another state for a minimum of three years prior to moving to Kansas.

If that condition is met, the employer's contribution rate will be equal to the rate previously charged by another state provided that rate was not less than 1.0 percent. In order to retain the reduced contribution rate, the employer must maintain a positive account balance throughout the four-year period the reduced rate is in effect.

Employers with an employment history of at least three years qualify for experience-based ratings.

Employers are classified as positive balance when their total contributions to the UI Trust Fund exceed the amount of unemployment benefits charged to their accounts. Positive balance employers are grouped into 27 rate groups, depending upon their unemployment experience, and a specific contribution rate is determined for each employer.

The standard rates for the positive groups range from 0.2 percent for rate group 1 and increase by 20 basis points in each subsequent rate group until 5.4 percent is established for rate group 27.

Employers not classified as negative balance employers are eligible to receive a fee discount of 25.0 percent if all reports are filed and contributions are made by January 31. This discount does not apply if other discounts provided by law are in effect or if the UI Trust Fund's balance is insufficient.

Employers are classified as negative balance when their total contributions to the UI Trust Fund do not exceed the amount of unemployment benefits charged to their accounts. They are grouped into 11 rate groups. The standard rates for the negative groups range from 5.6 percent for rate group N1 and increase by 20 basis points in each subsequent rate group until 7.6 percent is established for rate group N11.

The solvency adjustment, which is based upon the UI Trust Fund's reserve ratio (the UI Trust Fund's balance as of July 31, divided by total payroll for

contributing employers) and the average high benefit cost rate (an average of the three highest ratios of benefits paid to total wages in the most recent 20 years) is applied to all experience-rated employers, which range from a maximum of 1.6 percent to a minimum of -0.5 percent. Employers have the choice to make additional contributions to the UI Trust Fund in order to become positive balance employers and qualify for an experience-based rating with lower contribution rates.

### **Federal Unemployment Trust Fund**

In addition to the contributions to the UI Trust Fund, employers are taxed by the Federal Unemployment Tax Act (FUTA).

Employers pay a rate of 6.0 percent on the first \$7,000 of income; however, the federal government provides a tax credit of 5.4 percent against this rate for states with an unemployment insurance program in compliance with federal requirements.

This yields an effective contribution rate of 0.6 percent for Kansas employers. FUTA funds are used for administrative purposes and to fund loans for state unemployment insurance programs when they become insolvent.

### **Solvency of UI Trust Fund**

Kansas uses the Average High Cost Multiple (AHCM), as recommended by the U.S. Department of Labor, to ensure the UI Trust Fund is adequately funded. The AHCM is the number of years a state can pay benefits out of its current UI Trust Fund balance if it were required to pay benefits at a rate equivalent to an average of the three highest 12-month periods in the past 20 years.

The primary determinants of the UI Trust Fund depletion rate are the benefits paid out, the number of persons to whom unemployment is paid, and the amount of time for which benefits are paid.

**Current Status of the Fund**

If a future recession were severe enough to deplete the UI Trust Fund, which happened during the Great Recession, the Kansas Department of Labor is authorized to borrow from the federal Labor Department, Pooled Money Investment Board, or both to make weekly benefit payments. The State General Fund is not obligated to ensure the solvency of the UI Trust Fund. Likewise, the UI Trust Fund may not be used for non-employment security purposes. Federal UI loans must be repaid in a single lump sum plus interest, which is waived if a state’s UI trust fund was sufficiently solvent prior to the loan. Failure to repay the loan results in the FUTA tax credit for employers being reduced by an additional 0.3 percent annually until the debt is repaid.

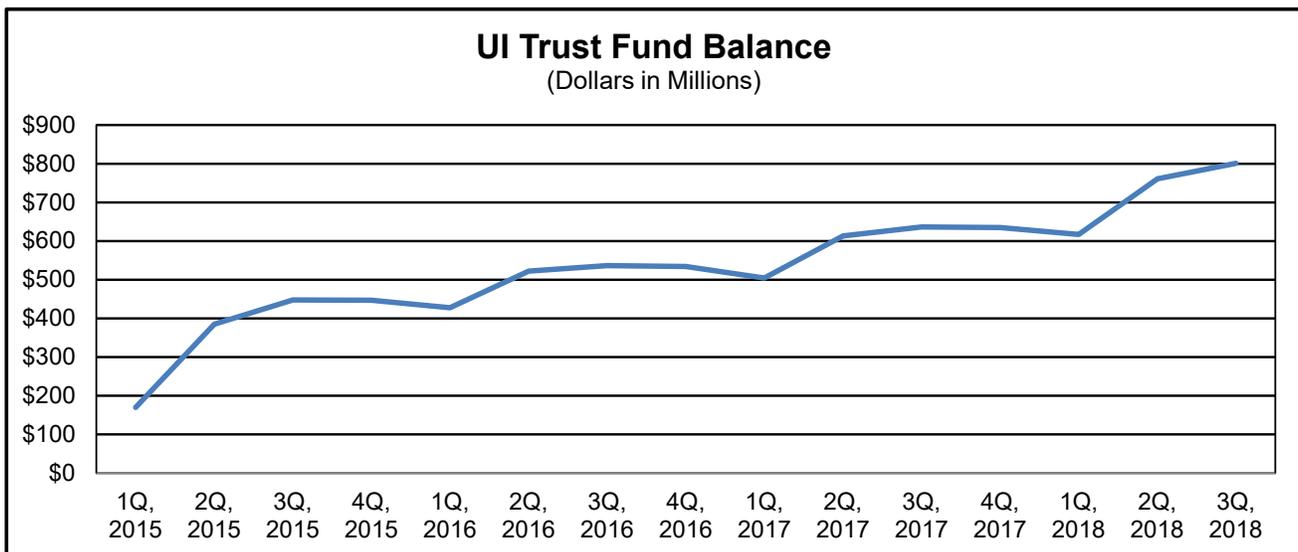
**Employee Benefits**

An individual is eligible for unemployment compensation when that person has lost employment through no fault of his or her own. Termination or resignation generally disqualifies a person from receiving UI benefits; however, Kansas Employment Security Law allows for several exceptions to this prohibition.

The amount of money an employee can receive in benefits will vary depending on the level of compensation the employee received during employment and the length of time the employee can receive benefits. However, there are strict upper and lower limits on benefit payments to prevent over- and under-compensation. If the Kansas Department of Labor determines a person made a false statement or representation when applying for benefits, that person is disqualified from receiving benefits for five years.

**Calculating the Weekly Benefit**

The weekly benefit amount is what the claimant will receive each week in unemployment compensation. The weekly benefit amount is determined by multiplying 4.25 percent times the highest earning quarter in the first four of the last five completed calendar quarters. KSA 2018 Supp. 44-704(c) limits the weekly benefit amount to either \$474 or 55.0 percent of the average weekly wages paid to employees in insured work in the previous calendar year, whichever is greater. Subsection (d) of the same statute guarantees that employees will receive at least 25.0 percent of the average weekly wages paid to employees in insured work in the previous calendar year.



Source: Weekly UI Reports, Kansas Department of Labor

## Calculating the Length of Compensation

During a standard or non-recessionary period, an employee's duration of benefit is calculated in one of two ways, whichever is less. First, an employee can receive weekly compensation for a specified number of weeks, or second, the duration of benefits is determined by multiplying one-third times the total benefits received in the first four of the last five completed calendar quarters. The weekly benefits amount is divided into the total benefits received in order to determine the number of weeks an employee can receive compensation. If the unemployment rate for Kansas is equal to or greater than 6.0 percent, a person is eligible for a maximum of 26 weeks of benefits. If the unemployment rate is less than 6.0 percent but greater than 4.5 percent, a person is eligible for 20 weeks of benefits. A person is eligible for 16 weeks of benefits if the unemployment rate is equal to or less than 4.5 percent. For purposes of this provision, the law calculates the unemployment rate using a three-month, seasonally adjusted rolling average.

The federal Emergency Unemployment Compensation Act of 2008 (Act) extends an

employee's duration of benefits by 20 weeks and has an additional Tier 2 trigger to provide 13 weeks of compensation when unemployment exceeds 6.0 percent, for a total of 33 weeks above the 26 weeks of unemployment compensation in non-recessionary periods. All benefits paid under the Act are paid from federal funds and do not impact the UI Trust Fund balance. Under KSA 2018 Supp. 44-704(a), Kansas will provide an additional 13 weeks of unemployment compensation when the Kansas economy hits one of several indicators, including an unemployment rate of at least 6.5 percent for the previous three months. An applicant can receive less than 13 weeks of extended state benefits in the event his or her original eligible benefit period was less than 26 weeks based on the one-third calculation. Under state law, extended Kansas benefits are paid 50.0 percent from the UI Trust Fund and 50.0 percent from the Federal Unemployment Account.

## Enforcement of the UI System

In 2013, the Legislature authorized the Secretary of Labor to hire special investigators with law enforcement capabilities to investigate UI fraud, tax evasion, and identity theft.

For more information, please contact:

Reed Holwegner, Principal Research Analyst  
[Reed.Holwegner@klrd.ks.gov](mailto:Reed.Holwegner@klrd.ks.gov)

John Hess, Fiscal Analyst  
[John.Hess@klrd.ks.gov](mailto:John.Hess@klrd.ks.gov)

Kansas Legislative Research Department  
300 SW 10th Ave., Room 68-West, Statehouse  
Topeka, KS 66612  
Phone: (785) 296-3181