Commerce, Labor, and Economic Development

B-1 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 (MSA) that has been found by the Secretary of Commerce (Secretary) to be in an eligible area under TIF 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 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 program 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 industry best practices;
- The 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 reapproval of the project. If the project is reapproved, 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;
- Streetlight 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, or 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.

**Additional 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.

Previously reauthorized in 2017, the authority to issue debt pursuant to the STAR Bond Financing Act was extended for one year by 2020 SB 66 and will sunset on July 1, 2021, unless further extended by an act of the Legislature.
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B-2 Unemployment Insurance Trust Fund

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 and requires all changes to the Employment Security Law (ESL) to be approved by the U.S. Department of Labor (USDOL) before taking effect. The ESL has been modified by the Legislature several times over the last 20 years.

State Fund Contributions

Contributions to the UI Trust Fund are made by Kansas employers and are governed by KSA 2019 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 primarily distributed during times of economic retraction.

The State charges employers a fee on the first $14,000 of wages paid to each employee, referred to as the taxable wage base. The amount collected from employers varies depending upon the presence or absence of several factors or conditions, the primary of which is 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 with fewer than 24 months of payroll experience have a contribution rate of 2.7 percent, unless they are in the construction industry. New employers within the construction industry are instead charged a contribution rate of 6.0 percent of their taxable wage base.

If the new employer is expanding or moving from another state, they are eligible to request an alternate rate. If they meet the qualifications, then the employer’s contribution rate would be equal to their previous rate in the other state provided the rate was 1.0 percent or greater of their taxable wage base. 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, or 0.2 percent, in each subsequent rate group until 5.4 percent is established for rate group 27.

An exception to this is if a positive balance employer’s reserve ratio has increased significantly due to an increase in their taxable payroll. If an increase occurred by a minimum of 100.0 percent due to employment growth rather than a change in their taxable wage base from the previous year, then the employer shall be given a reduced rate. The rate would be for a period of three years and require the employer to maintain a positive and increasing account balance for the three years.

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. These employers 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.

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 balance is insufficient.

Once standard rates are set, they are modified based upon the solvency adjustment. The solvency adjustment, which is based upon the UI Trust Fund’s Average High Cost Multiple (AHCM), is applied to all experience rated employers and ranges from an increase of 1.6 percent to a decrease of 0.5 percent. The AHCM is derived by dividing the UI Trust Fund’s reserve ratio by the average high benefit cost rate. This adjustment allows the rates to respond to the state of the UI Trust Fund.

Employers also 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.

In 2020 Special Session HB 2016, the Legislature exempted all employers from paying a solvency adjustment for calendar year 2021.

**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 would yield 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.

Under federal and state unemployment law, governmental entities and nonprofit organizations pay into the UI Trust Fund during the year after a laid-off employee has collected unemployment insurance benefits.

**CARES Act—Relief**

The Coronavirus Aid, Relief, and Economic Security (CARES) Act authorizes the USDOL to issue guidance to allow states to interpret their state unemployment insurance laws in a manner that would provide maximum flexibility.
to governmental and nonprofit employers for their payments into the unemployment system. Additionally, the CARES Act authorizes the federal government to provide partial reimbursements (approximately 50.0 percent of the amount of governmental and nonprofit payments into unemployment systems) to state and local governmental entities, certain nonprofit organizations, and federally recognized Indian tribes for weeks of unemployment between March 13, 2020, and December 31, 2020. These partial reimbursements apply to all payments made during this time period, even if the unemployed individual is not unemployed as a result of the COVID–19 pandemic. As of October 20, 2020, the CARES Act had provided $47.6 million of emergency relief for government entities and nonprofits.

Solvency of UI Trust Fund

Solvency of UI Trust Fund Kansas uses the AHCM, as recommended by the USDOL, to ensure the UI Trust Fund is adequately funded.

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 UI Trust Fund

If the UI Trust Fund is depleted, as occurred during the Great Recession, the Kansas Department of Labor (KDOL) is authorized to borrow from the USDOL, the 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. Prior to the COVID-19 pandemic, the state’s UI Trust Fund was considered sufficiently solvent that any loans taken from USDOL will be at 0.0 percent interest. 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. The terms of the loan are such that full payment is due on November 10 following the second January 1 the loan is outstanding. Thus, if the state’s UI Trust Fund requires a loan by January 1, 2021, then full payment would be due on November 10, 2022. If a loan is made on January 2, 2021, or later, then full payment would be due on November 10, 2023.

The UI Trust Fund contains a balance of $534.6 million as of November 7, 2020.

Employee Benefits

An individual is eligible for unemployment compensation when that person has lost employment through no fault of their own.

Termination for cause or resignation generally disqualifies a person from receiving UI benefits; however, the 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 KDOL determines a person made a false statement or representation when applying for benefits, that person is disqualified from receiving benefits for five years.

CARES Act—Unemployment Programs

The CARES Act established three federal unemployment programs to subsidize state programs and provide benefits for workers normally not covered by unemployment insurance. The Pandemic Unemployment Assistance (PUA) program provides benefits to individuals who are self-employed, seeking part-time employment, or would otherwise not qualify for UI benefits. The Pandemic Emergency Unemployment Compensation (PEUC) program extends benefits for those who have exhausted their state benefits, do not qualify for state benefits, or are unable to search for work due to COVID-19. The Federal
Pandemic Unemployment Compensation (FPUC) program provided an additional $600 per week benefit alongside whatever state benefits an individual received. Both PUA and PEUC are authorized to continue through December 31, 2020, while FPUC ended on July 31, 2020. As of October 20, 2020, PUA had paid $151.7 million, FPUC had paid $1.2 billion, and PEUC had paid $41.6 million in benefits to Kansans.

Following the termination of FPUC, President Trump signed an executive order establishing the Lost Wages Assistance Program (LWA), which utilized Federal Emergency Management Agency (FEMA) moneys to provide a $300 federal benefit with a $100 match from the states. The match could either be in addition to current state benefits, or current benefits could be used as the match. Kansas applied for the program utilizing existing state benefits as the match and was approved for the program. Kansas received money for LWA to include with all benefit payments between August 1, 2020, and September 5, 2020.

**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. The maximum weekly benefit amount is limited 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. The current maximum weekly benefit is $503 per week. Claimants are guaranteed to receive at least 25.0 percent of the average weekly wages paid to employees in insured work in the previous calendar year. The current minimum weekly benefit is $125 per week.

Prior to the enactment of 2020 House Sub. for SB 27, workers were required to wait a week prior to making a claim and receiving unemployment insurance benefits. The new law grants workers an additional week’s benefit upon the completion of the third week of unemployment after the waiting week. This amount does not increase the total amount of benefits that a worker may claim. This provision sunsets April 1, 2021.

This was further amended in 2020 Special Session HB 2016, in which the Legislature exempted all new claims filed between April 5, 2020, and
December 26, 2020, from the waiting week in accordance with the Families First Coronavirus Response Act and the federal CARES Act.

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; the calculation yielding a shorter duration is used. 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 earnings 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. By law, 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.

2020 House Sub. for SB 27 provides that any worker who files a claim for unemployment compensation on or after January 1, 2020, is eligible for a maximum of 26 weeks of benefits. This provision temporarily supersedes prior law related to the maximum length of benefits and sunsets on April 1, 2021.

Furthermore, on June 9, 2020, KDOL was notified that Kansas had triggered the Extended Benefits program and that effective June 7, 2020, unemployed Kansans would be eligible for an additional 13 weeks of benefits beyond the 26 weeks authorized by 2020 House Sub. for SB 27.

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. To cope with the increase in fraudulent claims, KDOL announced the creation of a dedicated website for individuals to file fraud reports and find all the information they need related to UI fraud. KDOL further announced on October 6, 2020, that it will be doubling the size of its fraud and special investigations unit, deploy technology to target scammers, and implement a variety of steps to mitigate UI fraud.


1 The reserve ratio is calculated by dividing the UI Trust Fund's balance as of July 31 by the total payroll for contributing employers.
2 The average high benefit cost rate is determined by averaging the three highest ratios of benefits paid to total wages in the most recent 20 years.
Commerce, Labor, and Economic Development

B-3 Department of Commerce – COVID-19 Assistance

The Kansas Department of Commerce (Department) is the cabinet agency concerned with economic development. Under the Office of the Secretary of Commerce, there are seven program groups: Business Incentives and Services, Community Development Assistance, Exporting and International Business, Commerce University Partnerships, Minority and Women Business and Development, Investor Programs and Services, and Workforce Services. The Athletic Commission and the Creative Arts Industries Commission also are organized within the Department.

During fiscal year (FY) 2020 and FY 2021, the Department has been tasked with assisting Kansas businesses and individuals in recovering from the economic stress of the COVID-19 pandemic. Following is a list of recovery programs that are managed by the Department.

Community Development Block Grant

The federal Coronavirus Aid, Relief, and Economic Security (CARES) Act allocated additional funding to the Community Development Block Grant (CDBG)-CV program in Kansas in three rounds, totaling $22.1 million. The purpose of the funds were to provide working capital for businesses and meal program support for communities.

To be eligible to receive a CDBG-CV Economic Development grant, the recipient business must be a for-profit business and retain jobs for low-to-moderate income people.

Fifty-one percent or more of the full-time equivalent (FTE) jobs retained must be for persons from low-to-moderate income households as defined by the U.S. Department of Housing and Urban Development (HUD).

CDBG-CV Economic Development grants can be used to pay for the following expenses:

- Working capital such as wages, utilities, and rent; and
The purchase of 60 days worth of inventory needed to reopen (60 days beginning on the day the business could reopen).

**Funding Limits and Conditions**

CDBG-CV Economic Development grants are awarded based on the following conditions:

- Businesses with five or fewer employees (including the owner) are eligible to receive up to $25,000 per FTE job in CDBG-CV Economic Development grant funding (with a maximum of $30,000 per company);
- Businesses with between 6 and 50 employees are eligible to receive up to $35,000 for each FTE job in CDBG-CV Economic Development grant funding (with a maximum of $50,000 per company);
- The maximum amount a community may apply for is $300,000; and
- To be eligible to receive a CDBG-CV Meal Program grant, the applicant must be able to demonstrate at least 51 percent of the community meets the low-to-moderate income household criteria as defined by HUD. CDBG-CV Meal Program grant funds can be directed toward organizations, such as Meals on Wheels, for the replenishment of local food banks or to support organizations that provide meal programs for children impacted by the loss of school meal programs. The maximum amount a community may request was $100,000.

**Kansas Creative Arts Industries Commission Grants**

Kansas received $440,600 through CARES Act arts funding. Applicants were asked to provide an annual operating budget and a one-month breakdown. Awards were then determined based on three months of operational expenses. Funds could be spent on recurring operational expenses like payroll and facility costs. The program was coordinated with other concurrent CARES Act programs to maximize the number of cultural organizations that would receive aid. CARES Act funds were supplemented with regular partnership funds to include more organizations due to the number of events and projects canceled in the last quarter of FY 2020. Individual awards were capped at $20,000.

**Connectivity Emergency Response Grants**

The Connectivity Emergency Response Grant (CERG) program was created to address the increased need for Internet connectivity in Kansas in response to the COVID-19 pandemic. The goal of the program is to improve connectivity to underserved and unserved areas to address needs related to the pandemic; $50.0 million in federal CARES Act funds was allocated for the program.

A 20.0-percent match is required for total project cost, and the maximum grant amount is $10.0 million. Minimally adequate internet connectivity was defined as residential speeds greater than or equal to 25 megabits per second (download) and 3 megabits per second (upload). The project must be completed by December 30, 2020, to comply with the law.

Eighty-four applications for projects were received, and 67 were approved. The distribution of funds by region is:

- Northeast Kansas – $9.7 million;
- Kansas City region – $8.3 million;
- Southeast Kansas – $5.2 million;
- South central Kansas – $14.1 million;
- North central Kansas – $590,515;
- Northwest Kansas – $402,811; and
- Southwest Kansas – $10.9 million.
Economic Development Grants

Business Retention and Expansion

In addition, $61.5 million was appropriated from federal CARES Act funds for business retention and expansion; including:

- Small business grants, in which 1,982 grants were approved for an average award of $18,954—19.0 percent was awarded to agriculture, automotive, oil and gas, and real estate businesses; 18.0 percent was awarded to the restaurant and hospitality industry; 15.0 percent was for business and professional services businesses; 12.0 percent was for personal services businesses; and 36.0 percent for other services;
- Personal protective equipment procurement and manufacturing;
- Domestic supply chain support;
- The COVID-19 Bioscience Product Development Accelerator Grant; and
- The University SARS-CoV-2/COVID Research and Diagnostic Capacity Support Grant.

Securing Local Food Systems

Also from federal CARES Act funding, $9.0 million was appropriated to secure local food systems for meat processing, food banks, and producers. While the program was housed in the Department, the lead technical review was handled by the Department of Agriculture.

Workforce Training and Retraining

Additionally, $8.1 million was appropriated from federal CARES Act funding for workforce training, including:

- Information Technology (IT) Cybersecurity & IT Project Management Certification Training;
- Higher Education Advanced Manufacturing and IT Equipment; and
- The Kansas Cybersecurity Consortium.

Hospitality Industry Relief Emergency (HIRE) Fund

From the Job Creation Program Fund, $5.0 million was appropriated to provide no-interest bridge loans of up to $20,000 to sustain operations in the Kansas hospitality industry; 344 Kansas hospitality businesses received HIRE Fund loans. In the Kansas City metro area, $2.0 million was distributed amongst 136 businesses; $1.0 million was distributed to 68 companies in Sedgwick County; and $2.0 million was distributed to 140 businesses across the rest of the state. The Job Creation Program Fund was later backfilled with $5.0 million from the Coronavirus Relief Fund by the Kansas State Finance Council.

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