

HOUSE BILL No. 2723

By Committee on Appropriations

3-8

1 AN ACT concerning the secretary of commerce; relating to implementing
2 administrative cost recovery fees for community finance, tax incentive
3 and grant programs; amending K.S.A. 74-5060 and K.S.A. 2015 Supp.
4 12-17,164, 74-50,150 and 76-7,141 and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) For purposes of recovering application processing,
8 oversight, administrative and other costs, the secretary of commerce may
9 assess an application fee of up to \$750 upon applications for economic
10 development incentive programs administered wholly or in part by the
11 secretary, including, but not limited to, the Kansas industrial training and
12 retraining programs, K.S.A. 74-5065 et seq., and amendments thereto, the
13 high performance incentive program, K.S.A. 74-50,131 et seq., and
14 amendments thereto, the promoting employment across Kansas act, K.S.A.
15 2015 Supp. 74-50,210 et seq., and amendments thereto and the job
16 creation program fund, K.S.A. 2015 Supp. 74-50,224 et seq., and
17 amendments thereto. The secretary may adopt rules and regulations to
18 implement the provisions of this subsection.

19 (b) The secretary of commerce shall remit all moneys received by or
20 for the secretary from such application fees and collected under this
21 section to the state treasurer in accordance with the provisions of K.S.A.
22 75-4215, and amendments thereto. Upon receipt of each such remittance,
23 the state treasurer shall deposit the entire amount in the state treasury to
24 the credit of the economic development incentive program application fee
25 fund, which is hereby established in the state treasury and which may be
26 used for costs to the department of commerce arising from administering
27 such economic development incentive programs. All expenditures from the
28 economic development incentive program application fee fund shall be
29 made in accordance with appropriation acts upon warrants of the director
30 of accounts and reports issued pursuant to vouchers approved by the
31 secretary or by a person or persons designated by the secretary.

32 Sec. 2. K.S.A. 2015 Supp. 12-17,164 is hereby amended to read as
33 follows: 12-17,164. (a) The governing body of a city may establish one or
34 more STAR bond projects in any area within such city or wholly outside
35 the boundaries of such city. A STAR bond project wholly outside the
36 boundaries of such city must be approved by the board of county

1 commissioners by the passage of a county resolution.

2 The governing body of a county may establish one or more STAR bond
3 projects in any unincorporated area of the county.

4 The projects shall be eligible for financing by special obligation bonds
5 payable from revenues described by ~~subsection (a)(1)~~ of K.S.A. 2015
6 Supp. 12-17,169(a)(1), and amendments thereto.

7 (b) Each STAR bond project shall first be approved by the secretary,
8 if the secretary determines that the proposed project or complex
9 sufficiently promotes, stimulates and develops the general and economic
10 welfare of the state as described in K.S.A. 2015 Supp. 12-17,160, and
11 amendments thereto. The secretary, upon approving the project, may
12 approve such financing in an amount not to exceed 50% of the total costs
13 including all project costs and any other costs related to the project. The
14 proceeds of such STAR bond financing may only be used to pay for
15 incurred project costs.

16 (c) For a city proposing to finance a major motorsports complex
17 pursuant to ~~subsection (a)(1)(C) or (a)(1)(E)~~ of K.S.A. 2015 Supp. 12-
18 17,169(a)(1)(C) or (a)(1)(E), and amendments thereto, the secretary, upon
19 approving the project, may approve such financing in an amount not to
20 exceed 50% of the STAR bond project costs.

21 (d) The secretary may approve a STAR bond project located in a
22 STAR bond project district established by a city prior to May 1, 2003.

23 (e) A project shall not be granted to any business that proposes to
24 relocate its business from another area of the state into such city or county,
25 for the purpose of consideration for a STAR bond project provided by
26 K.S.A. 2015 Supp. 12-17,160 et seq., and amendments thereto.

27 (f) A project shall not be approved by the secretary if the market
28 study required by K.S.A. 2015 Supp. 12-17,166, and amendments thereto,
29 indicates a substantial negative impact upon businesses in the project or
30 complex market area or the granting of such project or complex would
31 cause a default in the payment of any outstanding special obligation bond
32 payable from revenues authorized pursuant to ~~subsection (a)(1)~~ of K.S.A.
33 2015 Supp. 12-17,169(a)(1), and amendments thereto.

34 (g) The maximum maturity of special obligation bonds payable
35 primarily from revenues described by ~~subsection (a)(1)~~ of K.S.A. 2015
36 Supp. 12-17,169(a)(1), and amendments thereto, to finance STAR bond
37 projects pursuant to this section shall not exceed 20 years.

38 (h) The secretary shall not approve any application for STAR bond
39 project financing which is submitted by a city or county more than one
40 year after the STAR bond project district in which the STAR bond project
41 is located has been established.

42 (i) *For the purpose of recovering the costs of the secretary and the*
43 *department arising from fulfilling administrative, review, approval,*

1 *oversight and other responsibilities under the STAR bonds financing act*
2 *and from providing assistance to cities, counties and private businesses in*
3 *relation to STAR bond projects, the secretary may assess an administrative*
4 *fee of 1% of the amount of the special obligation bonds payable from*
5 *revenues described by K.S.A. 2015 Supp. 12-17,169(a)(1), and*
6 *amendments thereto, issued or reissued for STAR bond projects. The fee*
7 *shall be paid to the secretary from the proceeds of such bonds. All such*
8 *moneys received by the secretary shall be remitted to the state treasurer in*
9 *accordance with the provisions of K.S.A. 75-4215, and amendments*
10 *thereto. Upon receipt of each such remittance, the state treasurer shall*
11 *deposit the entire amount in the state treasury to the credit of the STAR*
12 *bond administrative fee fund, which is hereby created in the state treasury.*
13 *All expenditures from the STAR bond administrative fee fund shall be*
14 *made in accordance with appropriation acts upon warrants of the director*
15 *of accounts and reports issued pursuant to vouchers approved by the*
16 *secretary or a person or persons designated by the secretary.*

17 Sec. 3. K.S.A. 74-5060 is hereby amended to read as follows: 74-
18 5060. (a) The secretary shall determine the state ceiling for each calendar
19 year in accordance with the formula provided therefor in the code and,
20 except as otherwise provided in K.S.A. 74-5063, and amendments thereto,
21 shall allocate the state ceiling among governmental issuers in accordance
22 with the provisions of this section.

23 (b) The secretary shall reserve until October 15 of each year: (1) An
24 amount equal to \$5,000,000 for allocation in accordance with the
25 provisions of section 141(b)(5) of the code for private activity use of a
26 portion of the proceeds of bonds issued by governmental issuers; (2) an
27 amount equal to \$5,000,000 for allocation for qualified student loan bonds
28 as defined in section 144(b) of the code; and (3) an amount equal to
29 \$25,000,000 for allocation for qualified small issue bonds as defined in
30 section 144(a) of the code. On and after October 15 of each year, any
31 portion of the state ceiling remaining unused or uncommitted shall be
32 available for allocation to governmental issuers by the secretary without
33 regard to the reservations provided for in this subsection.

34 (c) Prior to any issuance of private activity bonds subject to the state
35 ceiling, a governmental issuer shall submit to the secretary on a form
36 prescribed by the secretary a written application for an allocation of the
37 state ceiling for such issue.

38 (d) Subject to the provisions of subsection (b), the secretary shall
39 approve each properly filed application for an allocation for qualified
40 small issue bonds of \$5,000,000 or less on the basis of the chronological
41 order of receipt of applications. If an application is for an allocation in
42 excess of \$5,000,000, the secretary may approve the total amount, approve
43 a partial amount or reject the application.

1 (e) Within five business days after receipt of an application for an
2 allocation, the secretary shall notify the governmental issuer in writing
3 that: (1) The application has been approved and shall specify the amount
4 approved,~~or~~; (2) the application has been denied,~~;~~; or (3) the application
5 has been placed on hold pending receipt of additional information with
6 respect to the application or pending a review of the effect approval of the
7 application will have on the state ceiling.

8 (f) Unless an extension or a carryforward election is approved by the
9 secretary, an approved allocation, or any portion thereof, that is not utilized
10 by the issuance of the private activity bonds for which the allocation was
11 approved shall expire at the earliest of: (1) The time of 11:59 p.m. on the
12 date which is 60 days after the date the notification of the approved
13 allocation is mailed to the governmental issuer or on such other date as the
14 secretary may specify in the notification,~~or~~; (2) the date upon which the
15 approved allocation is voluntarily surrendered to the secretary by the
16 governmental issuer,~~;~~; or (3) the time of 11:59 p.m. on December 1 of the
17 calendar year in which the allocation was approved.

18 (g) A governmental issuer may request an extension of the expiration
19 date of an approved allocation by filing a written application therefor with
20 the secretary. Any such application must be received by the secretary not
21 less than two days prior to the expiration date of the approved allocation.
22 In such instances, the secretary may approve an extension for a period
23 ending at the earliest of: (1) The time of 11:59 p.m. on the date which is 30
24 days after the initial expiration date,~~or~~; (2) the date upon which the
25 approved allocation is voluntarily surrendered to the secretary by the
26 governmental issuer,~~;~~; or (3) the time of 11:59 p.m. on December 1 of the
27 calendar year in which the allocation was approved. The secretary shall
28 notify the governmental issuer within five business days after receipt of
29 the application if the request for extension has been approved or denied. If
30 the private activity bonds for which an extension has been approved are
31 not issued on or before the last day of the extension period approved by
32 the secretary, the approved allocation shall expire unless a carryforward
33 election is approved by the secretary.

34 (h) Notwithstanding any other provision of this section, if an
35 approved allocation or an approved extension period expires on December
36 1, the secretary may grant an extension, or a further extension, for any
37 period ending not later than the time of 11:59 p.m. on December 31 of the
38 calendar year in which the allocation was approved.

39 (i) The secretary shall provide to the governmental issuer on or prior
40 to the date of issuance of any private activity bonds for which an approved
41 allocation has not expired a certification that such bonds meet the
42 requirements of section 146 of the code.

43 (j) On or after December 16 of each calendar year, the secretary may

1 approve a carryforward election with respect to an approved allocation or
2 any approved extension if the governmental issuer, in writing: (1)
3 Requests such action; and (2) indicates that the private activity bonds for
4 which the allocation was approved cannot be issued during the calendar
5 year in which the allocation was approved. Such approved carryforward
6 election shall be made by the governmental issuer by means of a
7 statement, signed by a duly authorized official of such issuer. Such
8 statement shall be filed with the secretary and with the internal revenue
9 service in accordance with section 146(f) of the code. A governmental
10 issuer may elect to carryforward such issuing authority only for qualified
11 mortgage bonds, mortgage credit certificates, qualified student loan bonds,
12 qualified redevelopment bonds, as defined in sections 142, 143 and 144 of
13 the code, or for bonds to finance a project described in section 141(e)(1)
14 (A) of the code. In no event shall such carryforward be effective for a
15 period longer than permitted by section 146(f) of the code.

16 (k) If an approved allocation expires, a governmental issuer may
17 submit another application for an allocation of the state ceiling for the
18 same purpose for which the expired allocation was approved. Any such
19 applications shall be reviewed in order of receipt with no preference or
20 priority being given as a result of the prior application and allocation.

21 (l) (1) *For purposes of recovery of program oversight and*
22 *administrative costs, the secretary may assess an administrative*
23 *application fee of up to 5% of the private activity bond issuance amount*
24 *requested. At the secretary's discretion, the fee may be made payable by*
25 *the governmental issuer or out of the bond proceeds or both. If the fee is*
26 *assessed in whole or in part upon the governmental issuer, the*
27 *governmental issuer may require payment of such fee or a portion thereof*
28 *from the conduit borrower or borrowers if requiring such payment from*
29 *the conduit borrower or borrowers is approved by the secretary. In no*
30 *case shall the fee exceed applicable limitations imposed by the code. The*
31 *secretary may issue rules and regulations to implement the provisions of*
32 *this subsection.*

33 (2) *The secretary shall remit all moneys received by or for the*
34 *secretary from such administrative application fees and collected under*
35 *this subsection to the state treasurer in accordance with the provisions of*
36 *K.S.A. 75-4215, and amendments thereto. Upon receipt of each such*
37 *remittance, the state treasurer shall deposit the entire amount in the state*
38 *treasury to the credit of the private activity bond administration fee fund,*
39 *which is hereby established in the state treasury. All expenditures from the*
40 *private activity bond administration fee fund shall be made in accordance*
41 *with appropriation acts upon warrants of the director of accounts and*
42 *reports issued pursuant to vouchers approved by the secretary or by a*
43 *person or persons designated by the secretary.*

1 Sec. 4. K.S.A. 2015 Supp. 74-50,150 is hereby amended to read as
2 follows: 74-50,150. (a) There is hereby established in the state treasury the
3 \$5,000,000 state affordable airfare fund, which shall be known and
4 referred to as the state affordable airfare fund and which shall be
5 administered by the secretary of commerce. In accordance with the
6 provisions of appropriation acts, moneys shall be transferred to the state
7 affordable airfare fund from the state general fund or one or more special
8 revenue funds in the state treasury as specified by appropriation acts.
9 *Subject to appropriation acts, the secretary is authorized to designate or*
10 *deduct from such moneys transferred to the state affordable airfare fund*
11 *an annual administrative fee not to exceed 2% of such moneys transferred,*
12 *which administrative fee shall be remitted to the state treasurer in*
13 *accordance with the provisions of K.S.A. 75-4215, and amendments*
14 *thereto, and the entire amount deposited by the state treasurer in the state*
15 *treasury to the credit of the state affordable airfare administrative fee*
16 *fund, which is hereby created in the state treasury.* All expenditures from
17 the state affordable airfare fund shall be for the program to provide more
18 air flight options, more competition for air travel and affordable air fares
19 for Kansas, including a regional airport in western Kansas. All
20 expenditures from the state affordable airfare fund shall be made in
21 accordance with appropriation acts upon warrants of the director of
22 accounts and reports issued pursuant to vouchers approved by the
23 secretary of commerce or the designee of the secretary.

24 (b) The moneys credited to the state affordable airfare fund shall be
25 disbursed as an annual grant by the secretary of commerce to the regional
26 economic area partnership (REAP) and shall be used for the development
27 and implementation of a program to provide more air flight options, more
28 competition for air travel and affordable air fares for Kansas, including a
29 regional airport in western Kansas. Each annual grant shall be matched by
30 moneys received by the regional economic area partnership (REAP) from
31 local units of government or private entities on the basis of 75% from the
32 state affordable airfare fund to 25% from local units of government or
33 private entities.

34 (c) Annually, beginning by January 15, 2008, at the beginning of each
35 regular session of the legislature thereafter, the regional economic area
36 partnership (REAP) shall evaluate and present a report on the effectiveness
37 of this program to the house of representatives committee on
38 appropriations and the senate committee on ways and means.
39 Commencing with the regular session in 2008, the regional economic area
40 partnership (REAP) shall prepare and submit a report on the expenditures
41 of the state annual grant and local matching moneys under the program
42 and the results obtained for such expenditures to the legislature at the
43 beginning of each regular session.

1 (d) During the interim between regular sessions of the legislature,
2 commencing with the 2006 legislative interim period, the legislative
3 budget committee shall study and review the activities of the regional
4 economic area partnership (REAP) under the program to provide more air
5 flight options, more competition for air travel and affordable air fares for
6 Kansas, including a regional airport in western Kansas.

7 (e) *All expenditures from the state affordable airfare administrative*
8 *fee fund shall be for the purpose of recovering costs incurred by the*
9 *secretary in the course of administering the state affordable airfare fund*
10 *and shall be made in accordance with appropriation acts upon warrants*
11 *of the director of accounts and reports issued pursuant to vouchers*
12 *approved by the secretary or by a person or persons designated by the*
13 *secretary.*

14 Sec. 5. K.S.A. 2015 Supp. 76-7,141 is hereby amended to read as
15 follows: 76-7,141. (a) (1) There is hereby created in the state treasury the
16 Kan-grow engineering fund – KU. The secretary shall remit all moneys
17 received under the university engineering initiative act for engineering
18 initiative facilities at the university of Kansas, to the state treasurer in
19 accordance with the provisions of K.S.A. 75-4215, and amendments
20 thereto. *Subject to appropriations therefore, the secretary may designate*
21 *an amount, not to exceed 2%, of such moneys remitted for the purpose of*
22 *an administrative fee to recover costs incurred by the secretary in*
23 *administering the fund and provisions of this act.* Upon receipt of each
24 such remittance, the state treasurer shall deposit the entire amount in the
25 state treasury to the credit of the Kan-grow engineering fund – KU, *except*
26 *that the amount designated by the secretary as an administrative fee shall*
27 *be deposited by the state treasurer in the state treasury to the credit of the*
28 *Kan-grow engineering administrative fee fund.*

29 (2) All expenditures from the Kan-grow engineering fund – KU shall
30 be for purposes of the university engineering initiative act and shall be
31 made in accordance with appropriation acts upon warrants of the director
32 of accounts and reports issued pursuant to vouchers approved by the
33 secretary or by a person designated by the secretary. Each expenditure
34 from the Kan-grow engineering fund – KU which is transferred from
35 expanded lottery act revenues fund moneys shall be required to be
36 matched on a \$1 for \$1 basis from nonstate sources.

37 (b) (1) There is hereby created in the state treasury the Kan-grow
38 engineering fund – KSU. The secretary shall remit all moneys received
39 under the university engineering initiative act for engineering initiative
40 facilities at Kansas state university, to the state treasurer in accordance
41 with the provisions of K.S.A. 75-4215, and amendments thereto. *Subject*
42 *to appropriations therefore, the secretary may designate an amount, not to*
43 *exceed 2%, of such moneys remitted for the purpose of an administrative*

1 *fee to recover costs incurred by the secretary in administering the fund*
2 *and provisions of this act.* Upon receipt of each such remittance, the state
3 treasurer shall deposit the entire amount in the state treasury to the credit
4 of the Kan-grow engineering fund – KSU, *except that the amount*
5 *designated by the secretary as an administrative fee shall be deposited by*
6 *the state treasurer in the state treasury to the credit of the Kan-grow*
7 *engineering administrative fee fund.*

8 (2) All expenditures from the Kan-grow engineering fund – KSU
9 shall be for purposes of the university engineering initiative act and shall
10 be made in accordance with appropriation acts upon warrants of the
11 director of accounts and reports issued pursuant to vouchers approved by
12 the secretary or by a person designated by the secretary. Each expenditure
13 from the Kan-grow engineering fund – KSU which is transferred from
14 expanded lottery act revenues fund moneys shall be required to be
15 matched on a \$1 for \$1 basis from nonstate sources.

16 (c) (1) There is hereby created in the state treasury the Kan-grow
17 engineering fund – WSU. The secretary shall remit all moneys received
18 under the university engineering initiative act for engineering initiative
19 facilities at Wichita state university, to the state treasurer in accordance
20 with the provisions of K.S.A. 75-4215, and amendments thereto. *Subject*
21 *to appropriations therefore, the secretary may designate an amount, not to*
22 *exceed 2%, of such moneys remitted for the purpose of an administrative*
23 *fee to recover costs incurred by the secretary in administering the fund*
24 *and provisions of this act.* Upon receipt of each such remittance, the state
25 treasurer shall deposit the entire amount in the state treasury to the credit
26 of the Kan-grow engineering fund – WSU, *except that the amount*
27 *designated by the secretary as an administrative fee shall be deposited by*
28 *the state treasurer in the state treasury to the credit of the Kan-grow*
29 *engineering administrative fee fund.*

30 (2) All expenditures from the Kan-grow engineering fund – WSU
31 shall be for purposes of the university engineering initiative act and shall
32 be made in accordance with appropriation acts upon warrants of the
33 director of accounts and reports issued pursuant to vouchers approved by
34 the secretary or by a person designated by the secretary. Each expenditure
35 from the Kan-grow engineering fund – WSU which is transferred from
36 expanded lottery act revenues fund moneys shall be required to be
37 matched on a \$1 for \$1 basis from nonstate sources.

38 (d) *There is hereby created in the state treasury the Kan-grow*
39 *engineering administrative fee fund. All expenditures from the Kan-grow*
40 *engineering administrative fee fund shall be for purposes of meeting*
41 *administrative and operational costs arising from the secretary's*
42 *responsibilities and activities under the university engineering initiative*
43 *act and costs arising from administration of the Kan-grow engineering*

1 *funds and shall be made in accordance with appropriation acts upon*
2 *warrants of the director of accounts and reports issued pursuant to*
3 *vouchers approved by the secretary or by a person or persons designated*
4 *by the secretary.*

5 Sec. 6. K.S.A. 74-5060 and K.S.A. 2015 Supp. 12-17,164, 74-50,150
6 and 76-7,141 are hereby repealed.

7 Sec. 7. This act shall take effect and be in force from and after its
8 publication in the statute book.