

March 22, 2016

The Honorable Marvin Kleeb, Chairperson
House Committee on Taxation
Statehouse, Room 185-N
Topeka, Kansas 66612

Dear Representative Kleeb:

SUBJECT: Fiscal Note for HB 2738 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2738 is respectfully submitted to your committee.

HB 2738 would make a number of changes to the Sales Tax and Revenue (STAR) Bond Financing Act. The bill would not allow property to be included in a new STAR bond project district that has already been included in another STAR bond project district unless the new STAR bond project district has been approved prior to March 1, 2016. The STAR bond district would be limited to the area being developed by the STAR bond project and any areas that are reasonably anticipated to directly benefit from the STAR bond project. Beginning on July 1, 2016, any new STAR bond districts that are established would not include sales tax revenue from retail automotive dealers. The bill would require that the Department of Commerce submit an annual report on STAR bond projects to the Legislative Post Audit Committee.

The Department of Commerce would be required to conduct an internal review of the overall viability of each new STAR bond project before the project could be approved. The review would include an assessment of the existing sales tax base and the impact of the STAR bond project on sales tax revenue that would be deposited into the State General Fund. The review would also include an assessment of the private financing component of the STAR bond project. The bill would require any city or county proposing to undertake a STAR bond project to prepare an economic impact study. The study would be conducted by an independent economic consultant selected by the Secretary of Commerce and the city or county would be responsible for the payment of the consultant. A city or county approved for STAR bond project financing would be required to pay to the State General Fund any amount in which the project financing exceeds 50.0 percent of the total cost, including all project costs and any other cost related to the project. In the case of a major motorsports complex, the city or county would be required to pay any amount in which the project financing exceeds 50.0 percent of the STAR bond project costs that are measured after the STAR bonds are paid in full. For any additional STAR bond project financing sought, the city or county would be required to pay any amount in which the financing exceeds 50.0 percent of the total cost of the addition or expansion to the STAR bond project.

Current law defines “tax increment” as that portion of the revenue derived from state and local sales, use and transient guest tax collected from taxpayers doing business within that portion of a STAR bond project district occupied by a project that is in excess of the amount of base year revenue. The bill would amend this definition to clarify that the base year of a STAR bond project district following the addition of area to the STAR bond project would be the base year of the original area. For a period of five years from the date that the STAR bonds are sold, the bill would prevent businesses located in the state to relocate to the STAR bond district, unless the business are owned by the developer or are located more than 50 miles away from the STAR bond district. The Secretary of Revenue and the Secretary of Commerce would be required to certify the appropriate amount of base year revenue for taxpayers relocated from within the state into a STAR bond district.

The bill would allow STAR bond project costs to include expenses for an aquarium facility; athletic facility; meeting space (if part of a blighted urban area STAR bond project); economic impact study, market study, or market impact study; and historic theater. The bill would not allow engineering, architectural, legal or other indirect construction costs that exceed 15.0 percent of the total STAR bond project costs. The bill would change the definition of a STAR bond project to include blighted urban areas that are located within specific boundaries in Sedgwick County with at least \$50.0 million in capital investment and \$35.0 million in projected annual gross sales. The bill includes requirements for establishing a blighted urban area STAR bond district. The STAR bond project would be required to be of regional or statewide importance. The Secretary of Commerce would be required to review and determine the eligibility of the project.

The bill establishes a schedule to decrease the amount of state sales tax that would be credited to future STAR bond projects. The bill allows state sales tax revenue that are six times the aggregate amount of city and county tax revenue to be pledged to STAR bond projects that are approved in FY 2018, five times the amount in FY 2019, four times the amount in FY 2020, and three times the amount in FY 2021 and in each future fiscal year.

The bill would also amend the definition of eligible area of a tax incremental financing (TIF) district to include buildings that are 65 years of age or older and any contiguous vacant or condemned lots.

The Department of Revenue indicates that HB 2738 would not have a direct fiscal effect on State General Fund revenues. The State General Fund and the State Highway Fund would not receive any growth in retail sales and compensating uses taxes collected in STAR bond districts until after the STAR bonds are paid are paid back. The bill would allow local governments, with the approval of the Secretary of Commerce, to issue bonds to finance STAR bond projects that include certain blighted areas. The state does not lose any revenue when these projects are created because the revenue would not be generated if the project did not exist.

The Department of Revenue indicates that the bill would require \$10,005 from the State General Fund in FY 2017 to implement the bill and to modify the sales tax processing system. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. However, if the combined effect of implementing this bill and other enacted legislation exceeds the Department’s programming resources, or if the time for

The Honorable Marvin Kleebl, Chairperson

March 22, 2016

Page 3—HB 2738

implementing the changes is too short, expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Department of Commerce indicates that it is currently responsible for reviewing and approving STAR bond applications. The Department indicates that the additional administrative costs associated with the oversight requirements proposed in the bill would be negligible and could be absorbed within existing staff levels and resources.

The League of Kansas Municipalities and the Kansas Association of Counties indicate the bill would increase STAR bond project costs by requiring local governments to pay for an economic impact study on each potential STAR bond project for the Department of Commerce. The bill has the potential to reduce future STAR bond projects by limiting the ability of the state's share for future STAR bond project costs and requiring local governments to pay the State General Fund any amount in which the project financing exceeds 50.0 percent of the total cost. The bill would expand eligible STAR bond projects and adds additional eligible STAR bond projects costs that could enhance economic development in local communities. However, the League of Kansas Municipalities and the Kansas Association of Counties do not have data on future STAR bond projects that would be proposed to provide a precise estimate of the fiscal effect on local governments. Any fiscal effect associated with HB 2738 is not reflected in *The FY 2017 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Bob North, Commerce
Jack Smith, Revenue
Larry Baer, LKM
Melissa Wangemann, KAC