

# STATE OF KANSAS



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GOVERNOR JEFF COLYER, M.D.  
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March 5, 2018

The Honorable Julia Lynn, Chairperson  
Senate Committee on Commerce  
Statehouse, Room 445-S  
Topeka, Kansas 66612

Dear Senator Lynn:

**SUBJECT:** Fiscal Note for SB 432 by Senate Committee on Assessment and Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning SB 432 is respectfully submitted to your committee.

SB 432 would create the STAR (Sales Tax and Revenue) Bond Underwriting Commission, which would comprise three members. One member would be appointed by the Senate President, one member would be appointed by the Speaker of the House of Representatives and one member would be appointed by the Secretary of Commerce. The bill would require each member to have at least ten years of experience in commercial banking, investment banking or real estate capital markets. Members may not be employed by or have any ownership or financial interest in a developer that has participated or is participating in a STAR bond project. Also, a member could not participate in a decision on a STAR bond application by a city or county if the member resides in, has an ownership or financial interest in a business located in, or is locating or relocating a business to that city or county. Members would be appointed to terms of three years and be eligible to be paid compensation as provided in KSA 75-3223(e). One member would be elected chairperson.

The Commission's purpose would be to evaluate and approve or deny applications for STAR bond projects. The Commission would be required to provide the Secretary of Commerce and the applying city or county with a written decision including the reasons for the decision. If the Commission approves a project application, the Secretary of Commerce would then consider the application for approval or denial. If the Commission denies the application, the project would not be considered by the Secretary. The Secretary cannot approve a STAR bond project that has not been approved by the Commission.

The bill would allow cities and counties to be charged a STAR bond project application fee of up to \$300 for costs incurred by the Commission for administering the provisions of the bill.

Support for the Commission would be provided by the Department of Commerce. The bill would also allow the Department of Commerce to recover costs under the provisions currently in KSA 2017 Supp. 12-17,164(i) that authorize the Department to assess an administrative fee of up to 1.00 percent but not to exceed \$200,000 of the amount of the amount of special obligation bonds issued for STAR Bond projects.

The Department of Commerce would be required to have a STAR bond program report page on its website and update it monthly. The bill lists the information that must be included on the website. Cities, counties, developers, businesses and other recipients of STAR bond proceeds or financing must provide information to the Secretary as a condition of approval of a project. The costs associated with obtaining the information and maintaining the website could also be recovered through KSA 2017 Supp. 12-17,164(i).

The bill would require the Secretary of Commerce to develop a net return on investment analysis and standards to apply to applications for STAR bond projects. No project may be approved by the Secretary if analysis indicates a negative net return on investment. Also, a project proposed by a city or county could not be approved by the Secretary if the city or county has not submitted all necessary reports and information. Applications could not be submitted by a city or county or accepted by the Secretary if a previously approved STAR bond project has failed within five years prior to the date of any new project application by the city or county. “Failure” would mean (1) actual sales and compensating use tax revenues pledged for payment of the STAR bonds are less than 50.0 percent of the projected sales and compensating use tax revenues; or (2) the city or county has defaulted on any STAR bonds associated with the project.

Applications could not be submitted by a city or county or accepted by the Secretary if any portion of the proposed STAR bond project district or any property located within one-quarter mile of the boundaries of the proposed STAR bond project district was part of a tax increment financing district that failed. “Failure” in this case would mean the cumulative city property tax increment revenues received by the city for financing the tax increment financing district were 50.0 percent of revenues. No project could be approved by the Secretary if any individual owner or partner of a developer involved with the project has been convicted of a felony.

The bill would amend the requirements for STAR bond feasibility studies. Studies would be required to include a total project capitalization analysis; evidence of comparable project viability, including demonstrated financial viability of a least three currently operating projects that are comparable to the proposed project; and any other evidence of financial viability of the proposed project required by the Secretary. The feasibility study and any associated studies on the economic and market impact must be conducted by one or more economic consultants approved by the Secretary. Costs for the studies would be paid by the developer or city or county.

The Secretary of Commerce would be required to prepare three-year and five-year progress reports on all STAR bond projects with outstanding bonds financed by state sales tax revenues. The progress reports must be submitted by January 31 of each year to the Senate Commerce Committee and the House Commerce, Labor and Economic Development Committee.

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The bill would remove landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities from the definition of “project costs” as it is used for STAR bond projects.

The Department of Commerce estimates that additional expenditures of \$37,125 would be required from the State General Fund in FY 2018 and FY 2019 for the salaries and wages of 0.50 FTE position, who would provide direct support to the Commission and coordinate Department of Commerce staff in carrying out the provisions of the bill. The Department was unable to estimate the amount of revenue that would be received in the STAR Bond Underwriting Commission Fee Fund because the number of STAR bond applications that would be submitted to the Commission in FY 2019 is unknown.

The League of Kansas Municipalities indicates it is unable to determine the fiscal effect of the bill. The League notes that the limitations on new projects regarding the amount of time elapsed from and proximity to failed projects may hinder some economic development initiatives.

It is estimated that the STAR bond application fee and any administrative costs cities or counties may incur related to the Commission review process could be handled within the existing resources of local governments. The bill would have no fiscal effect on the Department of Revenue. Any fiscal effect associated with SB 432 is not reflected in *The FY 2019 Governor’s Budget Report*.

Sincerely,



Larry L. Campbell  
Chief Budget Officer

cc: Bob North, Commerce  
Lynn Robinson, Department of Revenue  
Chardae Caine, League of Municipalities  
Melissa Wangemann, Association of Counties