

SENATE BILL No. 498

By Committee on Assessment and Taxation

3-11

1 AN ACT concerning STAR bonds; briefing for state finance council; state
2 sales tax increment limit and requirements; extending the sunset
3 provision thereof; amending K.S.A. 2019 Supp. 12-17,164, 12-17,169
4 and 12-17,179 and repealing the existing sections.

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

7 Section 1. K.S.A. 2019 Supp. 12-17,164 is hereby amended to read as
8 follows: 12-17,164. (a) The governing body of a city may establish one or
9 more STAR bond projects in any area within such city or wholly outside
10 the boundaries of such city. A STAR bond project wholly outside the
11 boundaries of such city must be approved by the board of county
12 commissioners by the passage of a county resolution.

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

15 The projects shall be eligible for financing by special obligation bonds
16 payable from revenues described by K.S.A. 2019 Supp. 12-17,169(a)(1),
17 and amendments thereto.

18 (b) (1) Each STAR bond project shall first be approved by the
19 secretary, if the secretary determines that the proposed project or complex
20 sufficiently promotes, stimulates and develops the general and economic
21 welfare of the state as described in K.S.A. 2019 Supp. 12-17,160, and
22 amendments thereto. The secretary, upon approving the project, may
23 approve such financing in an amount not to exceed 50% of the total costs
24 including all project costs and any other costs related to the project. The
25 proceeds of such STAR bond financing may only be used to pay for
26 incurred project costs.

27 (2) *Prior to approval of the STAR bond project financing by the*
28 *secretary, as provided by paragraph (1), and the issuance of STAR bonds*
29 *for the project, the secretary shall provide a written briefing and an oral*
30 *presentation on the STAR bond project to the state finance council,*
31 *established by K.S.A. 75-3708, and amendments thereto, for the*
32 *information of the council. Any oral presentation before the state finance*
33 *council or discussion by the state finance council with respect to the*
34 *written briefing or oral presentation may be considered the discussion of*
35 *data relating to financial affairs or trade secrets of corporations,*
36 *partnerships, trusts and individual proprietorships pursuant to the*

1 *provisions of K.S.A. 75-4319(b)(4), and amendments thereto, for purposes*
2 *of the Kansas open meetings act, and may be conducted in a closed or*
3 *executive meeting.*

4 (c) For a city proposing to finance a major motorsports complex
5 pursuant to K.S.A. 2019 Supp. 12-17,169(a)(1)(C) or (a)(1)(E), and
6 amendments thereto, the secretary, upon approving the project, may
7 approve such financing in an amount not to exceed 50% of the STAR bond
8 project costs.

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

11 (e) A project shall not be granted to any business that proposes to
12 relocate its business from another area of the state into such city or county,
13 for the purpose of consideration for a STAR bond project provided by
14 K.S.A. 2019 Supp. 12-17,160 et seq., and amendments thereto.

15 (f) A project shall not be approved by the secretary if the market
16 study required by K.S.A. 2019 Supp. 12-17,166, and amendments thereto,
17 indicates a substantial negative impact upon businesses in the project or
18 complex market area or the granting of such project or complex would
19 cause a default in the payment of any outstanding special obligation bond
20 payable from revenues authorized pursuant to K.S.A. 2019 Supp. 12-
21 17,169(a)(1), and amendments thereto.

22 (g) The maximum maturity of special obligation bonds payable
23 primarily from revenues described by K.S.A. 2019 Supp. 12-17,169(a)(1),
24 and amendments thereto, to finance STAR bond projects pursuant to this
25 section shall not exceed 20 years.

26 (h) The secretary shall not approve any application for STAR bond
27 project financing ~~which~~ *that* is submitted by a city or county more than
28 one year after the STAR bond project district in which the STAR bond
29 project is located has been established.

30 (i) For the purpose of recovering the costs of the secretary and the
31 department arising from fulfilling administrative, review, approval,
32 oversight and other responsibilities under the STAR bonds financing act
33 and from providing assistance to cities, counties and private businesses in
34 relation to STAR bond projects, the secretary may assess an administrative
35 fee of up to 1%, not to exceed \$200,000, of the amount of the special
36 obligation bonds payable from revenues described by K.S.A. 2019 Supp.
37 12-17,169(a)(1), and amendments thereto, issued or reissued for STAR
38 bond projects. The secretary may also recover any actual costs incurred by
39 the secretary in excess of the fee. The fee, and any actual costs incurred by
40 the secretary in excess of the fee, shall be paid to the secretary from the
41 proceeds of such bonds. All such moneys received by the secretary shall be
42 remitted to the state treasurer in accordance with the provisions of K.S.A.
43 75-4215, and amendments thereto. Upon receipt of each such remittance,

1 the state treasurer shall deposit the entire amount in the state treasury to
2 the credit of the STAR bond administrative fee fund, which is hereby
3 created in the state treasury. All expenditures from the STAR bond
4 administrative fee fund shall be made in accordance with appropriation
5 acts upon warrants of the director of accounts and reports issued pursuant
6 to vouchers approved by the secretary or a person or persons designated by
7 the secretary.

8 Sec. 2. K.S.A. 2019 Supp. 12-17,169 is hereby amended to read as
9 follows: 12-17,169. (a) (1) Any city or county shall have the power to
10 issue special obligation bonds in one or more series to finance the
11 undertaking of any STAR bond project in accordance with the provisions
12 of this act. Such special obligation bonds shall be made payable, both as to
13 principal and interest:

14 (A) From revenues of the city or county derived from or held in
15 connection with the undertaking and carrying out of any STAR bond
16 project or projects under this act including historic theater sales tax
17 increments;

18 (B) from any private sources, contributions or other financial
19 assistance from the state or federal government;

20 (C) from a pledge of 100% of the tax increment revenue received by
21 the city from any local sales and use taxes, including the city's share of any
22 county sales tax, ~~which that~~ are collected from taxpayers doing business
23 within that portion of the city's STAR bond project district established
24 pursuant to K.S.A. 2019 Supp. 12-17,165, and amendments thereto,
25 occupied by a STAR bond project, except for amounts committed to other
26 uses by election of voters or pledged to bond repayment prior to the
27 approval of the STAR bond project;

28 (D) at the option of the county in a city STAR bond project district,
29 from a pledge of all of the tax increment revenues received by the county
30 from any local sales and use taxes ~~which that~~ are collected from taxpayers
31 doing business within that portion of the city's STAR bond project district
32 established pursuant to K.S.A. 2019 Supp. 12-17,165, and amendments
33 thereto, except for amounts committed to other uses by election of voters
34 or pledged to bond repayment prior to the approval of a STAR bond
35 project;

36 (E) in a county STAR bond project district, from a pledge of 100% of
37 the tax increment revenue received by the county from any county sales
38 and use tax, but excluding any portions of such taxes that are allocated to
39 the cities in such county pursuant to K.S.A. 12-192, and amendments
40 thereto, ~~which that~~ are collected from taxpayers doing business within that
41 portion of the county's STAR bond project district established pursuant to
42 K.S.A. 2019 Supp. 12-17,165, and amendments thereto, occupied by a
43 STAR bond project;

1 (F) from a pledge of all or a portion of the tax increment revenue
2 received from any state sales taxes ~~which~~ *that* are collected from taxpayers
3 doing business within that portion of the city's or county's STAR bond
4 project district occupied by a STAR bond project, except that for any
5 STAR bond project district established and approved by the secretary on or
6 after January 1, 2017, such tax increment shall not include any sales tax
7 revenue from retail automobile dealers, *and except as provided by*
8 *subsection (f)*;

9 (G) at the option of the city or county and with approval of the
10 secretary, from all or a portion of the transient guest tax of such city or
11 county;

12 (H) at the option of the city or county and with approval of the
13 secretary: (i) From a pledge of all or a portion of increased revenue
14 received by the city or county from franchise fees collected from utilities
15 and other businesses using public right-of-way within the STAR bond
16 project district; or (ii) from a pledge of all or a portion of the revenue
17 received by a city or county from local sales taxes or local transient guest
18 and local use taxes; or

19 (I) by any combination of these methods.

20 The city or county may pledge such revenue to the repayment of such
21 special obligation bonds prior to, simultaneously with, or subsequent to the
22 issuance of such special obligation bonds.

23 (2) Bonds issued under subsection (a)(1) shall not be general
24 obligations of the city or the county, nor in any event shall they give rise to
25 a charge against its general credit or taxing powers, or be payable out of
26 any funds or properties other than any of those set forth in subsection (a)
27 (1) and such bonds shall so state on their face.

28 (3) Bonds issued under the provisions of subsection (a)(1) shall be
29 special obligations of the city or county and are declared to be negotiable
30 instruments. Such bonds shall be executed by the mayor and clerk of the
31 city or the chairperson of the board of county commissioners and the
32 county clerk and sealed with the corporate seal of the city or county. All
33 details pertaining to the issuance of such special obligation bonds and
34 terms and conditions thereof shall be determined by ordinance of the city
35 or by resolution of the county.

36 All special obligation bonds issued pursuant to this act and all income
37 or interest therefrom shall be exempt from all state taxes. Such special
38 obligation bonds shall contain none of the recitals set forth in K.S.A. 10-
39 112, and amendments thereto. Such special obligation bonds shall,
40 however, contain the following recitals: (i) The authority under which such
41 special obligation bonds are issued; (ii) such bonds are in conformity with
42 the provisions, restrictions and limitations thereof; and (iii) that such
43 special obligation bonds and the interest thereon are to be paid from the

1 money and revenue received as provided in subsection (a)(1).

2 (4) Any city or county issuing special obligation bonds under the
3 provisions of this act may refund all or part of such issue pursuant to the
4 provisions of K.S.A. 10-116a, and amendments thereto.

5 (b) (1) Subject to the provisions of subsection (b)(2), any city shall
6 have the power to issue full faith and credit tax increment bonds to finance
7 the undertaking, establishment or redevelopment of any major motorsports
8 complex, as defined in K.S.A. 2019 Supp. 12-17,162(k), and amendments
9 thereto. Such full faith and credit tax increment bonds shall be made
10 payable, both as to principal and interest: (A) From the revenue sources
11 identified in subsection (a)(1) or by any combination of these sources; and
12 (B) subject to the provisions of subsection (b)(2), from a pledge of the
13 city's full faith and credit to use its ad valorem taxing authority for
14 repayment thereof in the event all other authorized sources of revenue are
15 not sufficient.

16 (2) Except as provided in subsection (b)(3), before the governing
17 body of any city proposes to issue full faith and credit tax increment bonds
18 as authorized by this subsection, the feasibility study required by K.S.A.
19 2019 Supp. 12-17,166(b), and amendments thereto, shall demonstrate that
20 the benefits derived from the project will exceed the cost and that the
21 income therefrom will be sufficient to pay the costs of the project. No full
22 faith and credit tax increment bonds shall be issued unless the governing
23 body states in the resolution required by K.S.A. 2019 Supp. 12-17,166(e),
24 and amendments thereto, that it may issue such bonds to finance the
25 proposed STAR bond project. The governing body may issue the bonds
26 unless within 60 days following the conclusion of the public hearing on
27 the proposed STAR bond project plan a protest petition signed by 3% of
28 the qualified voters of the city is filed with the city clerk in accordance
29 with the provisions of K.S.A. 25-3601 et seq., and amendments thereto. If
30 a sufficient petition is filed, no full faith and credit tax increment bonds
31 shall be issued until the issuance of the bonds is approved by a majority of
32 the voters voting at an election thereon. Such election shall be called and
33 held in the manner provided by the general bond law. The failure of the
34 voters to approve the issuance of full faith and credit tax increment bonds
35 shall not prevent the city from issuing special obligation bonds in
36 accordance with this section. No such election shall be held in the event
37 the board of county commissioners or the board of education determines,
38 as provided in K.S.A. 2019 Supp. 12-17,165, and amendments thereto, that
39 the proposed STAR bond project district will have an adverse effect on the
40 county or school district.

41 (3) As an alternative to subsection (b)(2), any city ~~which~~ *that* adopts a
42 STAR bond project plan for a major motorsports complex, but does not
43 state its intent to issue full faith and credit tax increment bonds in the

1 resolution required by K.S.A. 2019 Supp. 12-17,166(e), and amendments
2 thereto, and has not acquired property in the STAR bond project area may
3 issue full faith and credit tax increment bonds if the governing body of the
4 city adopts a resolution stating its intent to issue the bonds and the
5 issuance of the bonds is approved by a majority of the voters voting at an
6 election thereon. Such election shall be called and held in the manner
7 provided by the general bond law. The failure of the voters to approve the
8 issuance of full faith and credit tax increment bonds shall not prevent the
9 city from issuing special obligation bonds pursuant to subsection (a)(1).
10 Any project plan adopted by a city prior to the effective date of this act in
11 accordance with K.S.A. 12-1772, and amendments thereto, shall not be
12 invalidated by any requirements of this act.

13 (4) During the progress of any major motorsports complex project in
14 which the project costs will be financed, in whole or in part, with the
15 proceeds of full faith and credit tax increment bonds, the city may issue
16 temporary notes in the manner provided in K.S.A. 10-123, and
17 amendments thereto, to pay the project costs for the major motorsports
18 complex project. Such temporary notes shall not be issued and the city
19 shall not acquire property in the STAR bond project area until the
20 requirements of subsection (b)(2) or (b)(3), whichever is applicable, have
21 been met.

22 (5) Full faith and credit tax increment bonds issued under this
23 subsection shall be general obligations of the city and are declared to be
24 negotiable instruments. Such bonds shall be issued in accordance with the
25 general bond law. All such bonds and all income or interest therefrom shall
26 be exempt from all state taxes. The amount of the full faith and credit tax
27 increment bonds issued and outstanding—~~which~~ *that* exceeds 3% of the
28 assessed valuation of the city shall be within the bonded debt limit
29 applicable to such city.

30 (6) Any city issuing full faith and credit tax increment bonds under
31 the provisions of this subsection may refund all or part of such issue
32 pursuant to the provisions of K.S.A. 10-116a, and amendments thereto.

33 (c) (1) For each project financed with special obligation bonds
34 payable from the revenues described in subsection (a)(1), the city or
35 county shall prepare and submit to the secretary by October 1 of each year,
36 a report describing the status of any projects within such STAR bond
37 project area, any expenditures of the proceeds of special obligation bonds
38 that have occurred since the last annual report and any expenditures of the
39 proceeds of such bonds expected to occur in the future, including the
40 amount of sales tax revenue, how such revenue has been spent, the
41 projected amount of such revenue and the anticipated use of such revenue.
42 The department of commerce shall compile this information and submit a
43 report annually to the governor and the legislature by February 1 of each

1 year.

2 (2) (A) In addition to the report referenced in paragraph (1), the
3 department of commerce, in cooperation with the department of revenue,
4 shall submit a report to the senate commerce committee and the house
5 commerce, labor and economic development committee by January 31 of
6 each session. The report shall include the following information for the last
7 three calendar years and the most current year-to-date information
8 available with respect to each STAR bond district:

9 (i) The amount of sales tax collected, and the amount of any "base"
10 sales taxes being allocated to the district;

11 (ii) the total amount of bond payments and other expenses incurred;

12 (iii) the total amount of bonds issued and the balance of the bonds, by
13 district and by project in the district;

14 (iv) the remaining cash balance in the project to pay future debt
15 service and other expenses;

16 (v) any new income producing properties being brought into a district
17 and the base revenue going to the state general fund and incremental sales
18 tax increases going to the district with respect to such properties;

19 (vi) the amount of bonds issued to repay private investors in the
20 project with calculations showing the private and state share of
21 indebtedness;

22 (vii) the percentage of local effort sales tax actually committed to the
23 district compared to the state's share of sales tax percentage committed to
24 the district;

25 (viii) the number of out-of-state visitors to a project, a discussion of
26 the visitor attraction properties of projects in the districts, and a
27 comparison of the number of out-of-state visitors with the number of in-
28 state visitors; and

29 (ix) if any information or data is not available, an explanation as to
30 why it is not available.

31 (B) Either the senate commerce committee or the house committee on
32 commerce, labor and economic development may amend the information
33 required in the report with additional requests and clarification on a going
34 forward basis.

35 (d) A city or county may use the proceeds of special obligation bonds
36 or any uncommitted funds derived from sources set forth in this section to
37 pay the bond project costs as defined in K.S.A. 2019 Supp. 12-17,162, and
38 amendments thereto, to implement the STAR bond project plan.

39 (e) With respect to a STAR bond project district established prior to
40 January 1, 2003, for which, prior to January 1, 2003, the secretary made a
41 finding as provided in subsection (a) that a STAR bond project would
42 create a major tourism area for the state, such special obligation bonds
43 shall be payable both as to principal and interest, from a pledge of all of

1 the revenue from any transient guest, state and local sales and use taxes
2 collected from taxpayers as provided in subsection (a) whether or not
3 revenues from such taxes are received by the city.

4 *(f) (1) For any STAR bond project district established and approved*
5 *by the secretary on or after July 1, 2020, the state sales tax increment*
6 *pursuant to subsection (a)(1)(F) shall be limited to up to 85% of the tax*
7 *increment revenue received from any state sales taxes and shall only be*
8 *allowed if:*

9 *(A) The city or county, at the time of issuance of the STAR bonds,*
10 *pledges local or county sales tax increment revenues pursuant to*
11 *subsection (a)(1)(C) or (E);*

12 *(B) the star bond project is a greenfield project. For purposes of this*
13 *provision, "greenfield project" means a real estate development of land not*
14 *previously used for residential, commercial or industrial purposes or that*
15 *does not involve the demolition or remodeling of existing structures; and*

16 *(C) the STAR bonds issued for the STAR bond project are rated in*
17 *either of the two highest rating categories by a nationally recognized*
18 *investment rating firm.*

19 *(2) On and after July 1, 2020, when an existing business located in*
20 *this state relocates into or becomes a part of a STAR bond project district,*
21 *the sales tax increment revenue from the business in excess of the base*
22 *year revenue determined for that business shall be subject to the*
23 *provisions of this subsection. If a state sales tax increment is permitted for*
24 *such business pursuant to the provisions of paragraph (1), the state sales*
25 *tax increment from such business shall be allocated between the state and*
26 *the STAR bond project district as provided by paragraph (1).*

27 Sec. 3. K.S.A. 2019 Supp. 12-17,179 is hereby amended to read as
28 follows: 12-17,179. (a) A city that created a redevelopment district in an
29 eligible area that was approved for STAR bonds prior to the effective date
30 of this act for the city of Manhattan Discovery Center on December 28,
31 2006, and the Schlitterbahn project in Wyandotte county on December 23,
32 2005, may by ordinance elect to have the provisions of this act applicable
33 to such redevelopment district.

34 (b) The provisions of this act regarding STAR bond projects shall
35 expire on and after July 1, ~~2020~~ 2022.

36 Sec. 4. K.S.A. 2019 Supp. 12-17,164, 12-17,169 and 12-17,179 are
37 hereby repealed.

38 Sec. 5. This act shall take effect and be in force from and after its
39 publication in the statute book.