



# MEMORANDUM

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TO: Members, Senate Commerce Committee  
FROM: Scott Frank, Legislative Post Auditor  
DATE: March 19, 2015  
SUBJECT: Testimony Supporting SB 283

**I appreciate the opportunity to testify in favor of Senate Bill 283**, which would address three areas of concern from our recent audit of the Heartland Park STAR Bond project in Topeka.

## **Background on the Heartland Park Project**

In 2006, the City of Topeka issued \$10.4 million in full faith and credit sales tax and revenue (STAR) bonds to make improvements to the Heartland Park racetrack. The full faith and credit backing made the city responsible for debt service payments in the event the STAR bond district did not generate enough revenue to retire the bonds that were issued. At that time, the STAR bond district was limited to the area directly surrounding Heartland Park with the expectation that a commerce park would develop around it. That development did not happen and as a result the district did not generate enough revenue to pay off the bonds.

In 2014, the City of Topeka developed a proposal to expand an existing STAR bond redevelopment district and issue new bonds to purchase Heartland Park. Under the proposal, the city is seeking to amend the earlier project to raise additional revenue and keep the park out of foreclosure. If approved, the city will issue an additional \$5 million in STAR bonds to purchase Heartland Park and expand the district to encompass a number of nearby businesses.

## **Summary of the Audit Findings**

Legislators expressed concerns about Topeka's proposal to amend the original STAR bond project and purchase Heartland Park. In December 2014, the Legislative Post Audit Committee responded to those concerns and directed us to conduct an audit to determine whether the city's proposal meets the intent of the STAR Bond Financing Act and its requirements.

We issued our final report in March 2015. In conducting our audit work, we evaluated eight areas of the proposal and found that each area appeared to meet legal requirements. However,

we also noted several concerns and areas where statutes could be strengthened or clarified. At its March 4 meeting, the Legislative Post Audit Committee requested the bill you are considering today to address the following areas of concern:

- **Current law has no provision to claw back the bond proceeds if a project fails to meet the “50% requirement.”** State law limits the amount of STAR bonds that may be issued to no more than 50% of the total costs of the project. If and when additional STAR bonds are issued, state law also limits the amount of additional bonds that may be issued to no more than 50% of the total costs of the addition to the STAR bond project. However, because the spending on a STAR bond project occurs over a period of many years, actual compliance with the 50% requirement cannot be assessed until the end of the project. More importantly, there are no consequences for not meeting the requirement because state law does not include any claw-back provisions. To help ensure the 50% requirement is enforceable in future STAR bond projects, SB 283 includes language requiring local governments that do not meet the 50% requirement at the end of the STAR bond period to repay a portion of that amount to the state general fund.
- **Although current law requires all projects to have an economic impact study, that study does not have to be an independent assessment.** State law requires an economic impact study as part of the STAR bond project application. The impact study must estimate the financial benefit the project will have on both the state economy and the local economy. For the Heartland Park STAR bond project, a pair of economic impact studies were submitted as part of the application, as is required under current law. However, both of the studies were commissioned by the private firm that would directly benefit from the project. Allowing an impact study to be commissioned by a party with a strong vested interest in the project creates a strong risk of bias in the study. To ensure state officials have an independent and unbiased economic impact assessment when considering future STAR bond proposals, SB 283 includes language requiring the economic impact study to be commissioned and directed by the Department of Commerce and conducted by an independent economic consultant. Additionally, it requires the local government seeking the STAR bond project to reimburse the Department of Commerce for such costs, which it may in turn recover through STAR bond proceeds if the project is approved.
- **Current law is not clear as to which year should be used as the base for sales tax calculations for an expanded redevelopment district.** The requirement is clear for the original STAR bond district—the 12 months preceding the establishment of the district. However, the current version of the law does not specify the appropriate base year for an expanded STAR bond district. In conducting our audit of the Heartland Park project, we learned that the law previously used the same base year for both the original and expanded districts, but that language was dropped when the law was revised several years ago. SB 283 would return the law to the earlier version, clarifying that the base year for an expanded district is the 12 months preceding the establishment of the district (i.e., the same as the original district).