Landon State Office Building
900 SW Jackson Street, Room 504
Topeka, Kansas 66612

Kansas

phone: 785-296-2436
fax: 785-296-0231
budget.director@budget.ks.gov

Jon Hummell, Interim Director

Division of the Budget

Sam Brownback, Governor

April 22, 2014

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

Dear Representative Carlson:

SUBJECT: Fiscal Note for HB 2769 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2769 is respectfully submitted to your committee.

HB 2769 would allow a taxpayer to enter into a property tax averaging payment plan upon application to the county treasurer of the county in which the property is located. The county treasurer would be required to notify the taxpayer if the plan has been approved no later than July 1 of the first year when the person participates in the plan. If a person is approved for the plan it would have the effect of (1) substituting the taxpayer's real property taxes due with a calculated amount; (2) deferring the payment of part of the taxpayer's real property taxes for the years in which the taxpayer participates in the plan if the taxes calculated are less than the taxpayer's real property taxes due on the property in the current year; and (3) creating a lien for such deferred taxes. Property taxes under the plan would be calculated each year after the application for participating in the plan has been filed and approved. The calculations would be made as follows:

1. In the first taxable year, the property taxes due on the property must be taxes as levied in that year;

2. In the second taxable year, the property taxes due on the property must be the average of the taxes levied in the current year and the preceding year;

3. In the third taxable year, the property taxes due on the property must be the average of the taxes levied in that year and the two preceding years;

4. In the fourth taxable year, the property taxes due on the property must be the average of the taxes levied in that year and the three preceding years; and

5. In the fifth taxable year, the property taxes due on the property must be the average of the taxes levied in that year and the four preceding years.

A taxpayer who elects to participate in the plan must pay the amount calculated for a taxable year even if the plan results in a higher payment. The county must first use the excess to remove any outstanding liens and the remaining amount must be remitted to the Property Tax Averaging Stabilization Fund. Any guardian, conservator, or attorney-in-fact who has been appointed by the taxpayer would be allowed to act on the taxpayer's behalf. The bill lists the requirements that a property must meet in order to participate in the plan, including that the property be the homestead of the taxpayer. The bill would require interest to accrue on deferred taxes at a rate provided under current law; and includes additional provisions related to liens on deferred taxes.

The bill includes the circumstances under which deferred property taxes, including accrued interest, must be paid. Whenever those circumstances are met, no further participation in the plan would be allowed until any taxes owed have been paid, with deferred taxes and interest due 90 days after the circumstance occurs except as otherwise provided. In the event the taxpayer dies, deferred taxes and interest must be paid no later than 180 days after the taxpayer's death. If a taxpayer becomes ill or dies, a spouse could elect to continue the property in its tax-deferred status if the property is the homestead of the spouse and the property meets certain requirements. In this case, the spouse would be required to apply for the property tax averaging payment plan with the county treasurer within 90 days and thereafter the county and state treasurer must withdraw any action taken against the property. The spouse may continue the property in its tax-deferred status in subsequent years if the property remains eligible for tax-deferred status.

The Department of Revenue indicates HB 2769 would reduce property tax revenues beginning in tax year 2016 to the extent taxpayers choose to participate in the property tax averaging payment plan, but has no reliable information to estimate the reduction. The state funds directly affected by this bill are the two building funds, the Educational Building Fund (EBF) and the State Institutions Building Fund (SIBF). Assuming 10.0 percent of the taxpayers participate in the plan, the Department estimates this bill would decrease revenues to these two funds by $40,000 in FY 2017, with $26,667 less going to the EBF and $13,333 less going to the SIBF. Less property tax revenue would also have an effect on state expenditures for aid to school districts. As school districts receive less property tax revenue through the state's uniform mill levy, the state customarily provides more state aid through the school finance formula. The Department of Revenue estimates the additional state expenditures for aid to schools to be $510,000 in FY 2017. The bill would also temporarily decrease revenues to any local government that levies a property tax.

To develop these estimates, the Department examined assessed valuations of residential property. In future years, the loss in revenues is expected to increase as the assessed value of these properties increases. The deferred property taxes plus interest would be a lien on the property and would eventually be collected in a future year with certain qualifying events.

The Kansas Association of Counties indicates that HB 2769 would increase expenditures for counties related to approving and administering payment plans, and would reduce revenues to counties temporarily due to the delay in the collection of property taxes which would be offset by interest collected on those taxes. However, it is unable to provide a precise estimate of the fiscal effect on counties at this time.

The League of Kansas Municipalities indicates that although cities would experience an initial loss, revenues from the collection of property taxes should balance out at some point in the future. However, the bill places no age or time limitations upon applicants or the plan participation and it is unknown how many deferral plans may be put into place, the amount of taxes deferred, and the length of the deferrals; therefore, the League is unable to provide a precise fiscal effect that these provisions would have upon Kansas cities. Any fiscal effect associated with HB 2769 is not reflected in *The FY 2015 Governor's Budget Report*.

Sincerely,

Jon Hummell,
Interim Director of the Budget

cc: Steve Neske, Revenue
Melissa Wangemann, KAC
Larry Baer, LKM