THE LEAGUE OF KANSAS MUNICIPALITIES

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Date: November 14, 2019
To: Governor's Special Tax Committee
From: Trey Cocking, Deputy Director
Re: Cities and Kansas Tax Structures

Chairwoman Lee and Chairman Morris, thank you for making this time available to us this morning. I want to spend time talking about the very nature of cities, the role of property tax, the harm of the tax lid, and the need for tax fairness on online sales.

Cites are different from other forms of local government in Kansas by their very nature and creation. Cities exist for one purpose only, and that is to provide a higher level of service to their residents. There is no requirement that a city exist, or continue to exist, and no one is required to live in a city. In fact, approximately 17% of the state's population live outside of a city. What are the benefits to living in a city? A higher level of service. Those services vary and can include police departments, fire departments, safe streets, parks, utilities, economic development, and other services to improve the quality of life of our residents. Cities are also very different from other forms of government because in 1960, voters of Kansas gave them the ability for local control and home rule through the Kansas Constitution.

Since before statehood, local governments have been levying property taxes to fund their operations. Under Kansas law, cities do not set a mill levy, but levy a tax amount based on actual dollars needed for city operations. The county clerk then takes the dollar levy and converts it to a mill levy based on the amount of the assessed property values of the taxing jurisdiction. Under the property tax lid, cities are capped on raising the amount of tax dollars above the Consumer Price Index, except for a few limited applications.

In 1978, cities made an agreement with the State of Kansas that they would not charge excise taxes on alcohol and tobacco, and in return, the State would share a portion of its revenue with cities and counties. This arrangement worked out well for the first 20 years, then the State of Kansas had financial difficulties following a recession and decided to no longer honor this obligation. Revenue sharing with local units of government has been a successful tool to keep property taxes lower since the 1930s. Since 2001, local governments in Kansas have lost approximately $2,591,533,883 that was required to be transferred under Kansas law.

The tax lid has presented several challenges to cities. One of the unintended consequences of the tax lid is that if cities lower their tax levy, they are then unable to return to the level they were at prior to lowering their tax levy. If a city had the flexibility to lower or not increase taxes in the current year, but the out years present a situation that has more risk with the cap in place, the city will have no responsible choice but to maintain at the current level or increase to the maximum allowed under the lid. This could also prove troubling when a city has a one-time savings (such as due to a cost savings or sale of a property) and would like to return those savings to the taxpayers. Under current law, the city would be able to lower property taxes for one year, but would then have to have a vote to increase to the level before those savings were passed on to the taxpayers.

I served as a City Manager/Administrator for 11 years. Every year during the budget cycle, I would have a conversation with members of my governing body on what their priorities were for the annual budget. Without a doubt, the conversation quickly turned to the city's tax levy, and their priority was usually keeping the tax levy flat. Most years, I was able to work through the numbers and find a way to keep the tax levy flat, with the understanding that we could always increase the tax levy the next year. However, with the property tax lid in place there is no longer that ability and I would be forced to recommend an increase because of known and potential risks.

Local governments are often attacked for increases in property valuation, but those increases are often a result of new construction, expansion of territory, or a change in use. When new development occurs, often expensive new roads, new fire stations, and other expansion of services are needed to serve lightly populated areas, and those tax dollars are needed to handle these development challenges.

The inability of governments to collect local option sales or compensating use taxes on remote sales has eroded a viable and fair revenue source. The League supports the state collection of state and local sales and compensating use taxes due from in-state purchasers. Remitted taxes should continue to be distributed using existing methods/formulas for the state and local governments. The League further supports the adoption of the safe harbor provisions as used by South Dakota to ensure constitutional compliance with the recent U.S. Supreme Court decision in *South Dakota v. Wayfair, Inc* et al., 138 S. Ct. 2080 (2018).

The state, cities, and counties have all been impacted by the loss of sales tax due to remote sales. Remote sales will continue to increase, while "brick and mortar" sales continue declining, which inevitably means that we will see declining revenue if remote sales are untaxed.

The League and cities across Kansas stand ready to work the Governor, the Legislature, and this Council to continue to serve our residents, and provide them the services that are demanded at a cost they can afford.