Luke Bell
General Counsel/VP of Governmental Affairs
(785)633-6649 (Cell)
Email: lbell@kansasrealtor.com

To: Senate Taxation Committee

Date: March 8, 2016

Subject: **SB 316** – Protecting Kansas Property Owners from Exponentially Increasing Property Taxes by Giving Voters the Right to Vote on Property Tax Increases that Exceed Inflation

Chairman Donovan and members of the Senate Taxation Committee, thank you for the opportunity to provide testimony today on behalf of the Kansas Association of REALTORS® in support of **SB 316**, which would move up the implementation date of the right of taxpayers to vote on property tax increases that exceed inflation by cities and counties by two years from 2018 to 2016 and eliminate several loopholes that would allow cities and counties to increase property taxes while circumventing the property tax vote requirement. Through our comments, we hope to provide some additional context to the discussion on this very important issue.

KAR is the state's largest professional trade association, representing nearly 8,500 members involved in both residential and commercial real estate and advocating on behalf of the state's 700,000 property owners for over 95 years. REALTORS® serve an important role in the state's economy and are dedicated to working with our elected officials to create better communities by supporting economic development, a high quality of life and providing affordable housing opportunities while protecting the rights of private property owners.

Does Kansas have a property tax problem?

Before we discuss how **SB 316** would protect Kansas property owners from exponentially increasing property taxes, we must first define the problem we are attempting to address with this legislation. As we will discuss below, Kansas families, farmers and small business owners have been hit with an exponentially increasing property tax burden over the last 18 years, which has caused Kansas to have some of the highest property tax rates in the entire nation.

Over the last 18 years, the property tax burden imposed on Kansas families, farmers and small businesses by local governments has increased exponentially. From 1997 to 2015, the total amount of property tax revenues collected by Kansas counties and first class cities more than doubled from $774 million in 1997 to nearly $1.8 billion in 2015, which is a total increase of 128 percent over this time period. On average, Kansas local governments have increased the property tax burden by over seven percent each year.

At the same time, inflation increased by an average of just 2.2 percent and the Kansas statewide population grew by just 0.6 percent each year. Traditional economic theory holds that an economically efficient amount of tax revenue growth would be inflation plus population growth, which would be roughly 2.8 percent in Kansas over the last 18 years. Obviously, local governments need enough property tax revenue growth to cover the increased incremental costs to provide goods and services to residents due to inflation and to provide services to new residents of the community from population growth.

Currently, the property tax burden is growing at a rate that is more than two and a half times the rate of inflation plus population growth. As the growth of the property tax burden continues to increase at a rate that exceeds inflation and population growth, the per capita property tax burden will continue to increase on Kansas property owners. At the current growth rate, the per capita property tax burden will eventually increase to a point where the property tax burden is unaffordable for most Kansas families, farmers and small businesses.

Kansas has some of the highest rural property taxes in the entire nation

According to several national studies, Kansas has some of the highest property taxes in the entire nation and in our six-state region (Arkansas, Colorado, Kansas, Missouri, Nebraska and Oklahoma). For example, a 2014 study conducted by the Lincoln Institute of Land Policy concluded that Kansas has the worst effective property tax rate in the entire nation on rural commercial properties. Let me stress this again – this study concluded that Kansas has the WORST property tax burden in the entire nation on rural commercial properties!

This study used the cities of Iola (rural) and Wichita (urban) as the Kansas test subjects for the study. These two cities were chosen for the study because they are county seats and are consistent with other cities used in the multi-state study. Although the study just compares the property tax burden for certain properties in two cities in every state, we believe the results can be used to compare the relative property tax burdens among the states.

First, the study found that a taxpayer in the City of Iola (rural community) pays the highest effective property tax rate in the entire nation on rural commercial properties. The effective property tax rate in the City of Iola is 4.26 percent, which is nearly double the national average effective tax rate of 1.75 percent for rural communities. This means that a commercial property owner in rural Kansas most likely pays property taxes that are more than twice as high as an average commercial property owner in other states.

For comparison purposes, our neighboring states of Nebraska (12th – 2.13percent), Colorado (14th – 2.07percent), Missouri (15th – 2.06 percent), Oklahoma (43rd – 0.92 percent) and Arkansas (48th – 0.68 percent) all obviously rank better than Kansas on this study. The effective property tax rate on rural commercial property in Kansas is anywhere from 100percent and 527percent higher than the effective property tax rates in Nebraska and Arkansas, respectively.

According to the study, the owner of a commercial property valued at $1 million in the City of Iola, would pay total property taxes of $51,141 annually on the property. The same $1 million commercial property would only pay $25,539 in Nebraska (a $25,602 difference), $24,893 in Colorado (a $26,248 difference), $24,713 in Missouri (a $26,428 difference), $11,084 in Oklahoma (a $40,057 difference) and $8,196 in Arkansas (a $42,945 difference).

Second, the study found that a taxpayer in the City of Wichita (urban community) pays the 15th highest effective property tax rate in the entire nation on urban commercial properties. The effective property tax rate in the City of Wichita is 2.74 percent, which is nearly 27percent higher than the national average effective tax rate of 2.16 percent for urban communities. This means that a commercial property owner in urban Kansas most likely pays property taxes that are 27 percent higher than an average commercial property owner in other states.

For comparison purposes, only the state of Missouri (14th – 2.76 percent) has a higher effective property tax rate on commercial properties in urban communities than Kansas. Our neighboring states of Colorado (21st – 2.4 percent), Nebraska (27th – 2.06 percent), Arkansas (38th – 1.44 percent) and Oklahoma (43rd – 1.31 percent) all rank better than Kansas on this study. The effective property tax rate on urban commercial properties in Kansas is anywhere from 14 percent and 109 percent higher than the effective property tax rates in Colorado and Oklahoma, respectively.

Property taxes on residential properties generally fare a little bit better since residential properties have a much lower assessment rate (11.5 percent) compared to commercial properties (25 percent) under the Kansas Constitution. According to a 2015 study by the Tax Foundation, Kansas home owners pay an effective property tax rate of 1.39 percent on an owner-occupied home, which is the 15th highest effective tax rate in the entire nation.

For comparison purposes, only the state of Nebraska (7th – 1.84 percent) has a higher effective property tax rate on residential properties than Kansas. Our neighboring states of Missouri (26th – 1.02 percent), Oklahoma (29th – 0.86 percent), Arkansas (42nd – 0.62 percent) and Colorado (43rd – 0.61 percent) all rank better than Kansas on this study. The effective property tax rate on residential properties in Kansas is anywhere from 36 percent and 128 percent higher than the effective property tax rates in Missouri and Colorado, respectively.

Realizing that the effective tax rate on property is much higher in Kansas than most other states, the discussion turns to the causes for this disparity. Not surprisingly, there has been considerable disagreement on both sides of this issue. In this testimony, we will discuss this issue using actual property tax data from the Kansas Department of Revenue on property tax revenues collected by Kansas counties and first class cities from 1997 to 2015.

What has caused local governments to increase the property tax burden on Kansas property owners?

In summary, three basic theories have been floated by local governments and the media in an attempt to explain why local governments have increased the property tax burden on Kansas property owners. These theories, none of which are backed up by the actual data on property tax revenues, are the following:

(1) Elimination of funding since 2003 for the Local Ad Valorem Tax Reduction Fund (LAVTRF) and City-County Revenue Sharing Fund (CCRSF) has caused local governments to increase the property tax burden;
(2) Exemption for commercial machinery and equipment (M&E) from property taxes since 2006 has caused local governments to increase the property tax burden; and
(3) Reductions in state general fund spending by the Kansas Legislature from 2010 through 2014 have caused local governments to increase the property tax burden.

First, local governments have asserted that local governments have resorted to increasing the property tax burden in response to the loss of state revenue transfers to local governments under the LAVTRF and CCRSF programs since 2003. Under this line of reasoning, the elimination of state funding transfers to local governments has forced local governments that have otherwise been responsible with property tax collections to increase property taxes to make up for this lost funding.

Basically, both of these funds worked by taking state income and sales tax revenues and transferring a portion of these funds to local governments to subsidize spending on local government programs and services. Local governments were supposed to utilize the funds provided through these funding streams to reduce property taxes. The data provided in this briefing will demonstrate that this did not happen and instead the growth of the property tax burden actually grew at much HIGHER levels while the LAVTRF and CCRSF programs were funded.

From 1997 to 2003, the Kansas Legislature appropriated just over $573 million in funding for these two programs, which was an average of $82 million each year. At the same time, Kansas counties and first class cities continued to increase the property tax burden on Kansas property owners by nearly $373 million, or an average of nearly $64 million each year. As a result, while the Kansas Legislature spent nearly $82 million each year on “property tax relief” through these two programs, Kansas counties and first class cities continued to increase the property tax burden on Kansas families, farmers and small business owners by nearly $64 million each year at the same time.

If you were to accept the theory advanced by local governments that the loss of the revenue transfers from the state government to local governments caused increases in the property tax burden, then you would anticipate that the total amount of property taxes collected by Kansas counties and first class cities would have increased at a more rapid pace AFTER the elimination of the LAVTRF and CCRSF funding. If their theory was correct, then the annual growth of property tax increases should have been lower when these programs were fully funded and higher following their elimination by the Kansas Legislature in 2004.

However, the actual data on property tax collections does not support this theory. In fact, Kansas has had a major problem with property tax increases by local governments since 1999 and the trend of property tax increases by local governments has actually slowed down significantly since 2003 (when there has been no LAVTRF and CCRSF funding). Again, property tax increases are LOWER compared to when the Kansas Legislature funded the LAVTRF.

Not surprisingly, the data actually shows that the average annual growth rate of the property tax burden imposed by local governments was significantly HIGHER when the LAVTRF and CCRSF programs were funded by the Kansas Legislature. From 1997 to 2003, when the LAVTRF and CCRSF programs received record amounts of funding, the average annual growth rate of the property tax burden was 8.2 percent.

From 2004 to 2015, following the elimination of all funding for the LAVTRF and CCRSF programs, the average annual growth rate of the property tax burden was actually reduced to 3.8 percent. As result, the average annual growth of the property tax burden imposed by local governments is actually 55 percent lower following the elimination of funding for the LAVTRF and CCRSF programs compared to when the programs were funded at near record amounts.

In addition, the largest increase in the property tax burden on record by Kansas local governments took place in 2001 when property taxes increased by $93 million (a 10 percent increase). Not surprisingly, 2001 was also a year when the LAVTRF and CCRSF programs were funded with roughly $89 million in SGF funding. How could any reasonable person argue that the LAVTRF and CCRSF programs had any positive effect on lowering the property tax burden on Kansas families, farmers and small businesses?

Second, an additional argument advanced by local governments is that the passage of the property tax exemption for machinery and equipment (M&E) also caused the drastic increase in the property tax burden imposed by local governments. However, the same data also shows that the average annual growth rate of the property tax burden imposed by local governments is again significantly LOWER following the passage of the M&E property tax exemption at an average annual rate of 2.6 percent, which is 69 percent lower than the average annual growth rate of property taxes in the years prior to the passage of the M&E property tax exemption.

Again, the data proves that the elimination of funding for the LAVTRF and CCSRF programs and the passage of the M&E property tax exemption by the Kansas Legislature have not been the primary causes of the drastic increase in the property tax burden imposed by local governments. In fact, the data shows that the average annual growth in the property tax burden was actually significantly HIGHER during the years in which those programs were funded at record levels and no changes had been made to the taxation of machinery and equipment.

Third, another argument advanced by local governments is that the reduction of state general fund (SGF) spending from 2011 through 2014 has shifted the cost of funding government programs to local governments, which has caused a drastic increase in the property tax burden. Again not surprisingly, the actual data on local government property tax revenues shows that reductions in SGF spending has absolutely no correlation with increases in local government property tax revenues.

If this theory were true, then the data would show that property tax revenues collected by local governments would grow at a higher than average rate in the years following larger than average reductions in state general fund spending and would grow at a lower than average rate in the years following larger than average increases in state general fund spending. By studying the actual data comparing local property tax increases to changes in state general fund spending, there is actually an inverse relationship (-0.30) between these two measurements.

This means that not only is there no correlation between these two measurements, but that there is actually a small inverse relationship that shows that local property tax revenues actually INCREASE by a larger percentage when state general fund spending also INCREASES by a larger than average percentage. By the same token, local property tax revenues increase by a much smaller percentage when state general fund spending also DECREASES or increases by a smaller percentage than average. Simply, changes in SGF spending seem to have no effect on property taxes and if anything local property taxes increase when state spending also increases.

What is the real cause of the drastic growth in the property tax burden if these theories are not correct?

In contrast, the actual data demonstrates that local governments have continually increased the property tax burden on Kansas property owners since the Kansas Legislature's repeal of the property tax vote requirement in 1999. Prior to the repeal, local governments were essentially prohibited from increasing property taxes over the preceding year (without jumping through some difficult hoops). Obviously, not many local governments had been able to circumvent these requirements and property taxes essentially did not go up significantly prior to 1999.

During the 1999 Legislative Session, local governments came to the Kansas Legislature and promised to be "responsible" with property tax increases if the Kansas Legislature repealed the "burdensome" and "unfair" property tax lid. During that session, the Kansas Legislature repealed the property tax lid in one very small provision tucked into a large income and sales tax reform package (**SB 45**) at the very end of the session. According to an article published by the *Topeka Capitol-Journal*, the reaction from one very prominent local government lobbyist was (this is an exact quote) the following: "Whoopee! We're out from under the tax lid!"

Several Democratic members of the Kansas Senate, including Senate Minority Leader Anthony Hensley (D – Topeka), were outraged by the action and stated the following in an extremely eloquent and relevant explanation of vote on **SB 45** that can and should be applied to the situation we find ourselves in today:

> *It is very important that the public has the right to know whenever local government wants to reap a windfall due to higher valuations. However, with the sunset of the property tax lid, there is no longer a limit or control on local spending. Several proposals have been made which would give the public the right to vote on increases, and I am very concerned that this legislation gives no such provision for a public vote.* Kansas Senate Journal. May 2, 1999.

In response to the repeal of the property tax vote requirement and in carrying out their promise to be "responsible" with property tax increases, Kansas counties and first class cities increased the property tax burden on Kansas property owners by new annual records of 7 percent in 1999, 8 percent in 2000 and 10 percent in 2001. If 10 percent, 8 percent and 7 percent increases were considered to be "responsible" property tax increases, then we are frightened to find out what would be considered an "irresponsible" property tax increase.

The record annual increases in the property tax burden in 1999, 2000 and 2001 by local governments came at a time when the LAVTRF and CCRSF programs were funded at nearly record levels, the Kansas economy was growing at healthy rates, property values were steadily increasing and the state government was flush with funding and experiencing no major budget problems. As a result, it is clear that the lack of funding for the LAVTRF and CCSRF since 2003 has not been the primary reason for the exponentially increasing property tax burden.

By reviewing the historical data on local government property taxes from 1997 to 2015, it becomes very clear that the overwhelming driver behind the exponential increase in local property taxes is increasing assessed valuations on existing properties. When you compare the growth of assessed valuations to the growth in local government property tax revenues since 1997, these two measurements have a very close correlation at 0.80.

This means that, in nearly ever year from 1997 to 2015, local government property taxes go up at a rate each year that is very similar to the rate of growth in assessed valuations. As a result, the only accurate indicator on whether local government property tax revenues will increase or decrease is whether assessed valuations have increased or decreased. Therefore, if you want to tackle the problem of extremely high Kansas property taxes, then you are going to need to do something about the growth of assessed valuations.

<u>What is the property tax vote requirement?</u>

During the 2015 Legislative Session, the Kansas Legislature passed legislation (**HB 2109** and **SB 270**) that prohibits cities and counties from increasing property tax revenues over the preceding year by more than the rate of inflation unless the voters residing in the city or county approve the increase by a majority vote at an election. This requirement is called the "property tax vote requirement" by supporters and the "property tax lid" by opponents.

Having said that, referring to the property tax vote requirement as the "property tax lid" is completely inaccurate. The property tax vote requirement does not put a hard cap or lid on the amount of property tax revenues that can be collected by a city or county. Instead, the property tax vote requirement simply gives voters the right to vote on proposed property tax revenue increases that exceed the rate of inflation. If cities and counties provide a compelling rationale for the property tax increase, then voters can approve the property tax increase. There is no "cap" or "lid."

Rather than being some new or untested idea, some version of the property tax vote requirement has been around at various times in Kansas since at least the early 1900s and is currently utilized in at least the following 19 states, including our neighboring states of Colorado and Missouri: Arizona, Arkansas, California, Colorado, Idaho, Illinois, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Jersey, New Mexico, Pennsylvania, South Dakota, Washington and Wisconsin.

This is most likely one of the reasons that Colorado (0.61 percent – 57 percent lower) and Missouri (1.02 percent – 27 percent lower) both have drastically lower effective property tax rates than Kansas (1.39 percent) on residential properties. As you can see, there is a wide spectrum of both conservative-leaning states (Mississippi, Missouri and South Dakota) and liberal-leaning states (California, Illinois and Massachusetts) that utilize the property tax vote requirement for property tax increases.

During the 1908 Legislative Session, at the request of Republican Governor Edward W. Hoch, the Kansas Legislature passed the first version of the property tax vote requirement, which prevented any taxing district from passing a tax levy that would produce more than 102 percent of the amount of revenue that was produced during the previous year. Accordingly, the property tax vote requirement has been around in the state of Kansas for nearly 108 years.

<u>What are the exemptions to the property tax vote requirement?</u>

As it is currently drafted, the property tax vote requirement is surprisingly simple to explain. The statute prevents any city or county from approving any appropriation or budget that would utilize property tax revenues that exceed the previous year by more than the rate of inflation unless the increase is approved at an election by a public vote.

Having said that, the law contains 14 different exemptions to the property tax vote requirement where cities and counties could increase property tax revenues by more than the rate of inflation over the preceding year and avoid subjecting the increase to a public vote. Many of these exemptions are common sense and good public policy.

As currently drafted, **SB 316** does not touch nine of the current 14 exemptions to the property tax vote requirement. In our opinion, these exemptions were narrowly crafted and represent good public policy. As such, we have not engaged in any effort to eliminate or tweak these exemptions.

For example, additional property tax revenues that can be attributed to new improvements or new construction to real property, personal property, property located within annexed territory and property that has changed in use are not counted towards the calculation of whether property tax revenues exceed the previous year. All of these exemptions have been found in the statute since the late 1990s and generally exclude items from the calculation that do not relate to assessed valuations on existing properties on the property tax rolls.

Additional exemptions from the property tax vote requirement include any costs or revenues for the city or county that result from, among other things, the following factors: bond and interest payments, expiration of tax abatements on specific properties and the resulting increase in property tax revenues, new construction, new city or county expenditures specifically mandated by state or federal law and special assessments. Accordingly, you can see that cities and counties will have fairly significant authority to collect additional property tax revenues that exceed the rate of inflation without triggering a vote under the property tax vote requirement.

<u>Which exemptions to the property tax vote requirement need to be eliminated or tweaked?</u>

Unfortunately, several of the existing exemptions to the property tax vote requirement are really loopholes that are either too broad or examples of poor public policy. We would like the Senate Taxation Committee to consider either eliminating or significantly tweaking these exemptions to ensure that cities and counties do not unreasonably circumvent the property tax vote requirement and increase the property tax burden on your constituents.

Costs for Infrastructure or Improvements to Support Properties that are Exempt from Property Taxes: First, under K.S.A. 79-2925b(g)(2)(A)(i), any increase in property tax revenues over the preceding year over the rate of inflation are not subject to the property tax vote requirement in the amount of any costs incurred by a city or county for new infrastructure or improvements to existing infrastructure to support new improvements to properties that are exempt from paying property taxes. All of these entities are currently exempt from paying property taxes to cities and counties, which means that the city or county receives no property tax revenues from these properties.

As a result, it seems somewhat counterintuitive that funds spent by a city or county to build infrastructure that supports entities that do not pay property taxes could be used an excuse by the city or county to circumvent the property tax vote requirement, which is intended to provide property tax relief to private property owners that are forced to pay property taxes. In our opinion, this exemption does not make sense from a public policy perspective.

Regardless of the tax status of the property that is benefited by the improvements, this is just like any other expense of the city or county and should not be excluded when determining whether or not property tax revenues collected by the city or county have increased compared to the previous year by more than the rate of inflation.

Otherwise, you could have a situation where the expenditure of funds by a city or county to build infrastructure for entities that do not pay property taxes would be used an excuse to increase the property tax burden on entities and individuals that do pay property taxes without a public vote under the property tax vote requirement. From a common sense and public policy perspective, this exemption does not make sense and should be eliminated.

Increased Road Construction Costs Over Previously-Budgeted Amounts: Second, under K.S.A. 79-2925b(g)(2)(A)(iv), any increase in property tax revenues over the preceding year over the rate of inflation are not subject to the property tax vote requirement for any costs incurred by a city or county for road construction costs when such construction has already been approved by a resolution of the governing body of the city or county. Basically, this exemption excludes any funds that are required to complete a road construction project that has already been approved by the city or country when the project experiences a cost increase prior to completion.

Again, from a public policy perspective, we are struggling to determine how increases in road construction costs are distinguishable compared to any other expense incurred by a city or county. If this exemption were to remain in the statute, nothing would prevent a city or county from deliberately underestimating the cost of road construction projects during the initial approval of the project by the governing body and then collecting additional property tax revenues by circumventing the property tax vote requirement in future budget years to cover the cost "overruns" due to the artificially low cost estimates produced at the time of project approval. From a common sense and public policy perspective, this exemption does not make sense and should be eliminated.

Cost of Legal Judgments and Legal Expenses: Third, under K.S.A. 79-2925b(g)(2)(A)(vi), any increase in property tax revenues over the preceding year over the rate of inflation are not subject to the property tax vote requirement for the amount of any judgments levied against the city or county or expenses for legal counsel and for defense of legal actions against the city or county or officers of the city or county. From a public policy perspective, there is no reasonable justification for punishing property owners with a higher property tax burden to cover the cost of unrelated litigation or judgments against the city or county. For example, if a county employee brings litigation against the county due to sexual harassment in the workplace, why should the costs of defending this lawsuit result in the circumvention of the property tax vote requirement?

Furthermore, we believe that the language used in this exemption is very ambiguous. The exemption states that "expenses for legal counsel and for defense of legal actions against the city or county" shall not count towards the calculation of how much property tax revenues have increased over the preceding year. Does this mean that the salaries, benefits and overhead costs of every attorney working for the city or county is now exempt from this calculation? In the alternative, does this reflect only the direct costs of the attorney in defending the city or county in any action or litigation against the city or county? At a minimum, this ambiguity needs to be resolved.

Cost of Complying with Federal or State Mandates: Fourth, under K.S.A. 79-2925(g)(2)(A)(vii), any increase in property tax revenues over the preceding year over the rate of inflation are not subject to the property tax vote requirement for any costs incurred by a city or county for "new expenditures that are specifically mandated by federal or state law." Although this exemption sounds reasonable at a quick glance, we believe that the language used in this exemption is very ambiguous.

What types of expenditures are "specifically mandated by federal or state law?" If the state removes funding for a state program and a local governmental voluntarily chooses to fund the continuation of the program at the local level, even though they have not been required to do so, does this count as a "specifically mandated" expenditure? Moreover, are mandates that were adopted in the early 1900s covered under this exemption or does it need to be a mandate that was passed after the effective date of the property tax vote requirement?

We would argue that any mandates that were passed by either the federal or state government prior to the effective date of the property tax vote requirement have already been priced into the current level of property taxes imposed by cities and counties. In lieu of removing this exemption, this ambiguity needs to be resolved to ensure that this exemption is not used by cities and counties as a blanket exemption to circumvent the property tax vote requirement. Clarifying language must be added to define the meaning of the term “mandate” and to add a date certain as to when a mandate must have been adopted that would fall under this exemption.

Penalizing Taxpayers for Exercising Their Rights to Challenge Property Valuations: Fifth, under K.S.A. 79-2925b(g)(2)(C), any increase in property tax revenues over the preceding year over the rate of inflation will not be subject to the property tax vote requirement for the loss of any assessed valuation from existing properties on the property tax rolls that has occurred as the result of legislative action, judicial action or a ruling by the board of tax appeals. In our opinion, this is extremely poor public policy and penalizes property owners with a higher property tax burden when another property owner chooses to exercise their right to petition the Legislature or the courts for relief from an unreasonably high property tax valuation.

On a fairly routine basis, the Kansas Board of Tax Appeals (BOTA) considers appeals from private property owners that a particular county has overvalued the valuation of a property for property tax purposes. Furthermore, it is very common for BOTA to rule against the county and reduce the valuation of the property for property tax purposes. Under these circumstances, this is great for property owners as this serves as a check and balance on the ability of county appraisers to establish the valuation of the property for property tax purposes.

Unfortunately, this exemption seems to limit the ability of property owners to reduce their property tax burden by appealing the valuation of their property to BOTA and the courts. In our opinion, just because one property owner is successful in having the valuation of his or her property reduced, why should this allow the city or county to increase another property owner’s property tax burden and circumvent the property tax vote requirement? From a common sense and public policy perspective, this exemption does not make sense and should be eliminated.

<u>Why does the implementation date need to be moved forward from January 1, 2018 to July 1, 2016?</u>

Under current law, the property tax vote requirement does not go into effect until January 1, 2018. This means that cities and counties have the unfettered ability to increase property tax revenues by more than the rate of inflation for the next two budget years in 2016 and 2017 before the requirement goes into effect.

Many business advocacy groups, legislators and property owners have expressed concerns about the delayed implementation of the property tax vote requirement. Basically, these concerns center around the ability of a city or county to intentionally increase their property tax revenues for the next two years before the property tax vote requirement goes into effect.

The reason is that the amount that property tax revenues will be allowed to increase without becoming subject to the property tax vote requirement will be dependent upon the amount of property tax revenues that were collected by the city or county in the year prior to the implementation of the property tax vote requirement. Over the next two years, a city or county could increase the “base level” of property tax revenues for the purposes of this requirement without having those property tax increases subject to a public vote.

For example, let’s again assume that a county raised $10 million in total property tax revenues in 2014. If the property tax vote requirement would have been implemented in 2015 and inflation would have been 2.3 percent, then the county would only have been able to collect roughly $10.23 million in total property tax revenues in 2015 (assuming no exemptions applied), which is an increase of $230,000 (2.3 percent) over the preceding year.

However, the county commission realizes that the property tax vote requirement will go into effect in 2018, which gives them three years to increase property tax revenues without being subject to the requirement. As a result, the county decides to increase the mill levy rate in addition to collecting additional property tax revenues from increases in assessed valuations on existing properties. For the purposes of this example, county property tax revenues increase dramatically from $10 million in total property tax revenues in 2014 to $11 million in 2015 (a 10 percent increase), $12.1 million in 2016 (a 10 percent increase) and $13.31 million in 2017 (another 10 percent increase).

As a result, when the property tax vote requirement is finally implemented in 2018, the total property tax revenues that will be used as the base year for the calculation of the formula will now be $13.31 million collected in 2017 instead of the $10 million collected in 2014 (a 33 percent increase over three years). In the three years before the property tax vote requirement goes into effect, the county has increased property tax revenues by four times the pace of inflation, increased the property tax base for the calculation of the property tax vote requirement and denied voters the right to vote on the increase in property tax revenues above the rate of inflation.

If total property tax revenues collected by the county had only increased by the rate of inflation each year, county property taxpayers would have saved a total of roughly $5 million in property taxes over the three-year time period and the base year property tax revenue amount to determine if the property tax vote requirement applied in future years would be over $2.6 million lower at $10.71 million instead of $13.31 million. Accordingly, it is clear that cities and counties will have substantial incentives to increase property tax revenues before the property tax vote requirement goes into effect in 2018 under current law.

Unfortunately, there is evidence that this has already occurred in 2015. According to 2015 property tax revenue numbers provided by the Kansas Department of Revenue, 17 Kansas counties increased property taxes by more than ten percent last year. While it is impossible to identify the motives for these extremely large property tax increases, one would have to assume that at least one motivating factor was the impending implementation of the property tax vote requirement in 2018. If nothing is done this session to advance the implementation date, you will most likely see even more cities and counties increasing property taxes in 2016 and 2017.

For that reason, many business advocacy groups, legislators and voters support moving the implementation date of the property tax vote requirement to July 1, 2016 instead of January 1, 2018. This would ensure that cities and counties do not attempt to increase their base property tax revenues that will be used to calculate the amount of future property tax revenue growth that will be exempt from the property tax vote requirement.

<u>Does the property tax vote requirement work within the current local government budget approval process?</u>

Not surprisingly, cities and counties are attempting to channel most of their opposition to the property tax vote requirement into an argument that the property tax vote requirement does not work within the current process and timelines used by cities and counties to approve annual budgets. However, while the property tax vote requirement may not be CONVENIENT for cities and counties, some minor amendments that will be made to **SB 316** will give a city or county ample time to conduct an election for a proposed property tax increase.

Sedgwick County, the second largest county in the state, has found a way to make the property tax vote requirement work with just a few minor amendments to **SB 316**. If the second largest county in the state can give their constituents a larger voice on property tax decisions by making the property tax vote requirement work, then every other city and county in the state can make it work as well. Going forward, we are completely supportive of the requested amendments that will be brought forward by Sedgwick County and would urge you to include those changes in **SB 316** when you work the bill.

<u>Does the property tax vote requirement infringe on “local control?”</u>

Again not surprisingly, cities and counties also trot out the same old tired argument that the property tax vote requirement will infringe on “home rule” or “local control.” In our opinion, the ultimate “local control” should reside in the hands of voters. There are already roughly 30 other instances under Kansas law where voters have the ability to override the decisions of local elected officials through a majority public vote. As a result, you cannot get more “local” on the level of control than the voters themselves.

Giving voters the right to vote on property tax increases by cities and counties is no different than the nearly identical right already given to voters to vote when cities and counties increase local sales taxes or when public school districts increase property taxes through the local option budget (LOB) or to issue bonds for school construction projects. Voters are intelligent enough to make informed choices on these issues and the Kansas Legislature should not stand in the way of allowing voters to make an informed choice on their property tax burden.

Will the property tax vote requirement cause bond rating agencies to downgrade the bonds of local governments?

As currently drafted, **SB 316** does not touch an existing exemption to the property tax vote requirement that states that cities and counties can increase property taxes without a public vote if the funds will be spent to cover principal and interest payments on bonds issued or guaranteed by the city or county. This will ensure that cities and counties will always have the necessary funds to pay off bonds issued by the city or county, which means that bond rating agencies will not downgrade bonds issued by cities and counties. This argument is a red herring.

Do Kansans support the property tax vote requirement?

In late October 2015, American Strategies, a bipartisan national polling firm, conducted a statewide poll of 600 likely 2016 general election voters on the property tax vote requirement. According to the findings of this poll, Kansas voters are strongly supportive of the property tax vote requirement. In fact, over 76 percent of likely Kansas voters support the property tax vote requirement.

Overwhelming public support for the new law: Over three-quarters (76 percent) of likely Kansas voters favor the property tax vote requirement. There is considerable intensity behind this support (50 percent strongly support the new law against only seven percent that strongly oppose it).

Bipartisan and broad demographic coalition in favor of the new law: Virtually all Republicans (84 percent) favor the new law as do most independents (78 percent) and Democrats (61 percent). There is little demographic variance by age, education or gender – all groups provide solid majority backing for the new law. Support for the property tax vote requirement cuts across the entire political spectrum.

Voters support returning decision making over the property tax burden to the people: Voters are tremendously skeptical and do not trust local governments to make decisions about property tax increases. Once voters hear how much property taxes have increased over the past 17 years, the following theme was the highest rated statement in the polling:

> *The only way to stop politicians from raising taxes more than necessary is to let voters make the final decision on property taxes.*

It can't happen too soon as there is broad support for moving the implementation date up: Nearly two-thirds of voters (64 percent) support moving the implementation date of the law from 2018 to 2016. Again, support for moving the implementation date up cuts across the entire political spectrum.

Voters worried about property tax increases over next two years: Voters are worried about the ability of cities and counties to increase property taxes before the law goes into effect. If we wait, voters have no trouble believing that ". . . cities and counties will raise property taxes as much as they can in the next two years." 76 percent of voters agreed with the statement that they want the Kansas Legislature to act now to stop any unnecessary property tax increases.

Voters are more likely to vote for a candidate that supports the new law: Support for the law enhances a candidate's position in the upcoming elections. Well over half (59 percent) of voters are more likely to vote for a candidate who supports the new law. 69 percent of Republicans, 68 percent of conservatives, 53 percent of moderates, 52 percent of Democrats and 51 percent of independents are more likely to vote for a candidate that supports the property tax vote requirement.

Conclusion

In closing, we would respectfully request that the members of the Senate Taxation Committee consider the very real need for property tax relief for Kansas families, farmers and small businesses by supporting **SB 316**. Thank you for the opportunity to provide comments on this very important issue for Kansas families, farmers and small business owners and the Kansas economy.