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To: House Taxation Committee

Date: January 24, 2012

Subject: **HB 2212** -- Increasing the Accountability and Transparency of Local Governments in Approving Increases in the Property Tax Burden on Businesses and Homeowners

Chairman Carlson and members of the House Taxation Committee, thank you for the opportunity to appear today on behalf of the Kansas Association of REALTORS® to offer testimony in support of **HB 2212**. Through the comments expressed herein, it is our hope to provide additional legal and policy context to the discussion on this issue.

KAR is the state's largest professional trade association, representing nearly 8,000 members involved in both residential and commercial real estate and advocating on behalf of the state's 700,000 homeowners for over 90 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, sustainable communities and providing affordable housing opportunities, while protecting the rights of private property owners.

In our opinion, **HB 2212** is fundamentally a very simple concept that will increase the accountability and transparency of local governments that choose to increase the property tax burden on Kansas businesses and homeowners through increases in either the assessed valuation of properties or mill levy rates. While **HB 2212** fully preserves the absolute right of local control for local governments in approving property tax levies, it will provide property owners with a more accurate snapshot on whether the property tax burden is increasing in their community through either increased assessed valuations or mill levy rates.

In a nutshell, **HB 2212** would require the governing body of any local government with the authority to levy property taxes to adjust the jurisdiction's mill levy rate on an annual basis in order to ensure that the local government collects the same amount of total property tax revenue from existing properties as the previous year. Once the mill levy rate has been increased or reduced under this calculation, the governing body of the local government retains the authority to authorize a property tax increase (or decrease) through a simple majority vote on an ordinance or resolution authorizing the property tax increase.

Over the last decade, the property tax burden on Kansas homeowners and small businesses has literally exploded as property taxes have increased from roughly $1.97 billion in 1997 to over $3.8 billion in 2010, which is a 94% increase in just 13 years. This dramatic increase in the property tax burden is nearly triple the rate of inflation and 9.5 times greater than population growth over the same time period.

Unfortunately, we believe that this dramatic growth in the property tax burden stifles the economic prosperity of many small businesses in Kansas who have seen a consistent increase in the amount of their income that is devoted to paying their property tax assessments. Furthermore, we believe the increased property tax burden also makes it more difficult for Kansas families to make ends meet and is severely burdensome for many senior citizens and low-income Kansans on fixed incomes.

According to a detailed analysis by the Tax Foundation, Kansas currently has one of the most burdensome property tax systems for businesses with a ranking of 41st in 2012. Since the Kansas Legislature has started to discuss comprehensive income tax reform to improve the economic growth climate in Kansas for small businesses and individual taxpayers, REALTORS® strongly believe that the Kansas Legislature should also take action to improve the business climate through comprehensive property tax reform.

If enacted by the Kansas Legislature, nothing in **HB 2212** would impair or restrict the ability of any local government to raise additional property tax revenues at the local level. Instead, the provisions of **HB 2212** will simply require any local government that wishes to increase property taxes to be accountable and transparent in increasing property taxes through the approval of an increase in the mill levy rate (rather than relying on annual assessed valuation increases to raise additional property tax revenue).

Prior to 1999, local governments in Kansas operated under a system that placed explicit annual caps and limitations on the ability of local governments to increase the property tax burden. In 1999, the Kansas Legislature repealed the property tax lid system and replaced it with the truth in taxation system, which requires annual public disclosure by local governments who wish to raise more property tax revenue in any tax year than the preceding tax year.

As currently drafted, REALTORS® believe that **HB 2212** is a good faith effort to make some incremental improvements to the public disclosure requirements contained in the Kansas truth in taxation law. Rather than reinstituting a system of explicit annual caps and limitations on the ability of local governments to increase the property tax burden, **HB 2212** simply increases the accountability and transparency of the process by requiring local governments to annually adjust the mill levy rate to account for increased (or decreased) assessed valuations on existing real property within the local government's jurisdiction.

Having said that, we would like to ask for a friendly amendment to **HB 2212** that would increase the transparency of the process by requiring any local government seeking a property tax increase to provide more detailed information to property owners on the proposed property tax increase. In doing so, the amendment would require local governments to publish a notice in the official county newspaper of the county where they are located informing property owners of the proposed annual increase in the mill levy rate and hold a public hearing to discuss the approval of the appropriation or budget that necessitates the property tax increase.

If approved by the Kansas Legislature, the proposed amendment (contained on pages three and four of our testimony) will enhance the intent behind **HB 2212** by increasing the accountability and transparency of local governments in increasing the property tax burden on property owners. Prior to the passage of any budget that required an increase in the total property tax burden on property owners, the local government would be required to provide sufficient notice to property owners about the proposed property tax increase and provide them with an opportunity to testify at a public hearing on the proposal.

In our opinion, **HB 2212** would simply ensure that local governments are fully accountable to your constituents by requiring any local government who wishes to increase the property tax burden to increase the property tax mill levy rate rather than allowing a property tax increase through the stealth nature of annual assessed valuation increases. By approving this legislation, the Kansas Legislature will be taking a huge step forward in increasing the accountability and transparency of the Kansas property tax system.

Session of 2011

HOUSE BILL No. 2212

By Representatives Brunk, Arpke, Boman, Collins, Goodman, Gregory, Hermanson, Howell, Huebert, Hedke, Kiegerl, Osterman, Patton, Peck, Scapa and Weber

2-8

AN ACT concerning property taxation; relating to revenues produced by property tax levies; mill levy adjustments; resolutions, publication requirements; amending K.S.A. 2010 Supp. 79-2925b and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) Subject to the provisions of K.S.A. 79-2925b, and amendments thereto, if the total taxable real property valuation in any municipality increases due to increases in the assessed valuation of existing real property, then the governing body shall lower the mill levy rate to such rate that would equal the amount of ad valorem property taxes levied in the next preceding year. This subsection shall not apply to ad valorem taxes levied under K.S.A. 72-6431, 76-6b01 and 76-6b05, and amendments thereto, or any other ad valorem tax levy which was previously approved by the voters of such municipality. Property that, in the current year, is new construction, is located within added jurisdictional territory, or has changed in use shall not be considered when determining whether the total taxable real property valuation has increased from the prior year.

(b) If the total taxable real property valuation in any municipality decreases, then the governing body may increase the mill levy rate, subject to any statutory restrictions, to a rate that would equal the amount of ad valorem property taxes levied in the next preceding year.

(c) The provisions of subsection (a) shall not apply to or limit the levy of ad valorem taxes for the payment of principal and interest on bonds, temporary notes and no-fund warrants or judgments rendered against any such taxing subdivision.

(d) For the purpose of this section, "municipality" means any county, township, city, municipal university, school district, community college, drainage district and any other taxing district or political subdivision which levies taxes on property.

Sec. 2. K.S.A. 2010 Supp. 79-2925b is hereby amended to read as follows: 79-2925b. (a) Without adoption of a resolution or ordinance so providing, ~~the governing body of any taxing subdivision shall not~~

and unless the governing body of any taxing subdivision complies with the requirements set forth in subsection (e) approve any appropriation or budget, as the case requires, which may be funded by revenue produced from property taxes, and which provides for funding with such revenue in an amount exceeding that of the next preceding year, except with regard to revenue produced and attributable to the taxation of: (1) New improvements to real property;

(2) increased personal property valuation, other than increased valuation of oil and gas leaseholds and mobile homes;

(3) property located within added jurisdictional territory; and

(4) property which has changed in use.

(b) The provisions of this section shall be applicable to all fiscal and budget years commencing on and after the effective date of this act.

~~(c) The provisions of this section shall not apply to community colleges or unified school districts.~~

~~(d)~~ *(c)* The provisions of this section shall not apply to revenue received from property tax levied for the sole purpose of repayment of the principal of and interest upon bonded indebtedness, temporary notes and no-fund warrants.

(d) Any resolution adopted pursuant to this section shall be published in the official county newspaper of the county where such taxing subdivision is located.

Sec. 3. K.S.A. 2010 Supp. 79-2925b is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

or ordinance

(e) Prior to the approval of any appropriation or budget under subsection (a), the governing body of the taxing subdivision shall:

(1) publish a notice as specified in subsection (f) in the official county newspaper of the county where such taxing subdivision is located at least 15 calendar days prior to the hearing required under subsection (e)(2); and

(2) hold a public hearing regarding the approval of any appropriation or budget under subsection (a) no earlier than 15 calendar days following the publishing of the notice required under subsection (e)(1).

(f) The notice required to be published under subsection (e)(1) shall contain, at a minimum, the following information:

(1) the date, time and location of the public hearing required under subsection (e)(2) that will be held to discuss the approval of any appropriation or budget under subsection (a); and

(2) the following statement:

(A) "NOTICE OF PROPOSED TAX INCREASE. [INSERT NAME OF TAXING SUBDVISION] is proposing a tax increase for [insert the applicable calendar year]. The proposed tax increase would increase the mill levy rate from [insert the mill levy rate for the taxing subdivision calculated pursuant to New Section 1(a)] to [insert the proposed mill levy rate for the calendar year for which the taxing subdivision seeks to approve any appropriation or budget under subsection (a)], which is a [insert the percentage increase in the proposed mill levy rate compared to the current mill levy rate] percent increase. If you would like to participate in a public hearing to discuss the tax increase, please attend the public hearing at the date, time and location specified in this notice."

(g) The notice required to be published under subsection (e)(1) shall:

(1) occupy at least one-fourth of a page of the publication;

(2) include type size of at least 18-point font; and

(3) not be placed in the classified ad or legal notice sections of the newspaper.