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Date: February 5, 2020  
To: Senate Committee on Assessment and Taxation  
From: Josh Shaw, City Manager, Augusta, KS  
Re: SB 294 – Written Opponent Testimony

Thank you, Chairwoman and Committee, for allowing me to submit testimony on SB 294. The City is currently opposed to this legislation because it is a fundamentally flawed bill.

Last December, the Tax Foundation recommended that Kansas repeal the tax lid and adopt the Utah model of Truth-in-Taxation. However, SB 294 is not the Utah model. The Utah model allows for new growth to be captured, and unlike the recommendation from the Tax Foundation, the bill doesn't repeal the tax lid.

SB 294 is flawed for the following reasons:

- SB 294 does not follow the Utah model. According to a description of Utah's TNT law provided on the [Kaysville City, UT website](#),  
  
"Utah's "Truth in Taxation" laws are revenue-driven. That means the requirement to hold a "Truth in Taxation" hearing is based upon the collections of a taxing entity, not the rate charged. Utah law requires "Truth in Taxation" hearings to be held when a taxing entity elects to collect more revenue than was collected the previous year, although the entities are permitted to keep revenues generated by "new growth"—such as value added from a new subdivision or a new business."  
  
• As opposed to the Utah TNT, SB 294 does not allow taxing entities benefit from new growth related to construction and expansion without engaging in the TNT hearing process. Similarly, SB 294 does not offer an exemption for expiration of tax abatements and exemptions, which effectively means that cities cannot automatically benefit from delayed "new growth" that is added to the tax rolls after those incentives expire.

- SB 294 requires “the governing body of each taxing subdivision...to calculate its certified tax rate” on or before July 1<sup>st</sup>. The tax rate refers to the “mill levy,” which is multiplied by the taxable portion of real property (i.e. assessed value) to determine the amount of ad valorem taxes collected. Kansas cities **do not certify mill levies**. Pursuant to K.S.A. 79-1801, governing bodies must “certify, on or before August 25th, to the proper county clerk the **amount of ad valorem tax** to be levied.” This proposed bill is in conflict structurally, logistically (calendar), and jurisdictionally with existing Kansas law.
- Tax rates (i.e. mill levies) are not fully certified by the county until October, meaning that our city does not know what its final certified mill levy is until November. Beyond the calendar problem, certifying a mill levy in July does not allow or account for fluctuations resulting from constitutional property tax exemptions, tax appeal cases, and other types of property tax exemptions (e.g. aircraft) that may be filed or pending resolution between July and November. Historically, the City of Augusta has lost hundreds of thousands of dollars in valuation between the July projections provided by the county and the November mill levy certified by the county because of aircraft at our municipal airport receiving business or historic property tax exemptions, causing them to be removed from the tax rolls.
- Cities certifying a mill levy as opposed to the amount of ad valorem tax is nonsensical as a practical matter with respect to city operations. If City A pays one police officer \$50,000 and has a total assessed valuation of \$1,000,000 and neighboring City B pays one police officer \$50,000 and has a total assessed valuation of \$2,000,000, then City A’s mill levy is 50 mills and City B’s mill levy is 25 mills respectively to cover the cost. The amount of ad valorem tax required to pay for the police officer is exactly the same in both cities (\$50,000) but the mill levy in one city is double the other. This is why cities in Kansas certify the amount of ad valorem tax as opposed to the mill levy: mill levies are derivative. This is also the reason why the existing property tax lid in Kansas applies to the amount of ad valorem taxes and not to the mill levy.
- Contrary to the Tax Foundation’s recommendation, SB294 does not actually remove the current property tax lid imposed by the State of Kansas, and the TNT process creates a calendar conflict that does not work with a tax lid election.
- SB 294 originated from a study prepared by the Tax Foundation. Following is a list of observations and inquiries raised by this report that speak to the underlying question of “what problem is SB 294 trying to solve?”
  - ✓ According to research referenced in the [Tax Foundation’s study](#), Kansas rated better than all of its regional competitors and “Kansas tied with Georgia as the best states for property tax administration.” (p. 127)<sup>1</sup> Kansas received an “A” rating for transparency whereas Utah, the state whose TNT law we are supposed to mimic, received a “C” rating for transparency in the [same study](#).<sup>2</sup> Why model our laws after a state with inferior transparency scores?

- ✓ Different than other states, Kansas has a long, proud history of municipal ownership and operation of utilities and other services that may be handled by private entities or institutions other states. City of Augusta employees, for instance, operate an electric utility, wastewater utility, water utility, trash and recycling utility, municipal airport, cemetery, swimming pool, and recreational lake in addition to all of the standard city services. Despite all of these additional services, the City of Augusta has a ratio of 1.13 local government employees per 100 residents, which is drastically below the 6.1 local government employees per 100 residents referenced in the study in [Table 6.7](#) (p.125).
- ✓ According to research referenced in the [Tax Foundation's Study](#), "...consumption and property taxes are the least harmful to economic growth." <sup>3</sup> Given that property taxes are the least harmful to economic growth, the State of Kansas' emphasis in recent years on property tax lids and TNT laws that constrain local government's ability to generate revenues to pay the costs to support their local budgets seems to be a solution in search of a problem.

**Notes:**

1. Michael Lucci, Katherine Loughhead, Janelle Cammenga, and Jared Walczak, "Kansas Tax Modernization: A Framework for Stable, Fair, Pro-Growth Reform," Tax Foundation and Kansas Chamber, <https://files.taxfoundation.org/20200131100615/Kansas-Tax-Modernization-A-Framework-for-Stable-Fair-Pro-Growth-Reform.pdf>
2. Nikki Dobay and Fred Nicely, "The Best (and Worst) of International Property Tax Administration," Council On State Taxation, June 2019, 5, <https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-studies-articles-reports/2019-internationalproperty-tax-scorecard---final.pdf>.
3. Jens Arnold, Bert Brys, Christopher Heady, Åsa Johannsson, Cyrille Schwellnus, and Laura Vartia, "Tax Policy for Economic Recovery and Growth," The Economic Journal 121:550 (February 2011).

For these reasons, I ask that Committee not to pass SB 294 out of committee. Thank you for your consideration.

Respectfully submitted,

Josh Shaw  
City Manager  
Augusta, KS