Memorandum
City of Lawrence
City Attorney's Office

TO: **Diane Stoddard, Interim City Manager**
Casey Toomay, Assistant City Manager
Brandon McGuire, Assistant to the City Manager
Bryan Kidney, Finance Director

CC: **Toni Wheeler, City Attorney**

FROM: **R. Scott Wagner, Management Analyst**

Date: **July 6, 2015**

RE: **House Bill 2142**

An enrolled copy of House Bill 2142 is attached. The bill was adopted by the Kansas Legislature on Sine Die – June 26, 2015 as the "fix" to the date discrepancies regarding the municipal tax lid provisions contained in Senate Substitute for HB 2109 and House Substitute for Senate Bill 270. The new effective date for the tax lid measures is January 1, 2018.

Tax Lid Provisions

Senate Substitute for HB 2109 and House Substitute Senate Bill 270 adopted by the legislature as the tax bills at the end of the legislative session contained so called "tax lid" provisions. The attached House Bill 2142 contains the final legislative enactment on the issue for the 2015 session.

Section 1 of the bill amends K.S.A. 2014 Supp. 79-2925b as amended by section 1 of 2015 House Substitute for Senate Bill 270.

It requires that municipalities may not increase their budgets without a majority vote of the governing body, which is funded by property tax revenues in an amount of the next preceding year that is greater than in increase in the consumer price index (CPI) for all urban consumers as published by the U.S. Department of Labor, adjusted for inflation. If the total tangible property valuation increases from the preceding year due to increases in valuation and such increases exceed CPI growth, then the municipality must reduce the amount of ad valorem tax to be levied to the amount levied in the preceding year, adjusted to reflect changes in the CPI. This section does not apply to increases previously approved by voters. Increases in property valuation due to the below factors shall also not be considered in the measurement of property revenue growth:

(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; or
(4) Property which has changed in use.

The provisions also do 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.

In the event the governing body seeks to approve a budget in an amount exceeding that of the next preceding year, subject to the above limitations, notice of such vote must be published in the official newspaper. Any resolution approving such an increase shall not be effective unless it has been submitted to and approved by a majority of the qualified electors of the city at an election. Such elections may be held in August or November or may be a mail ballot question or may be a special election called by the city.

Section (g) (2) (A) of the legislation provides additional elements that do not need to be taken into consideration when determining whether a tax increase election is required:

(i) Costs for new infrastructure or improvements to existing infrastructure to property exempt from property taxation pursuant to the provisions of K.S.A. 79-201 et seq., such as hospitals, schools and churches, or exempt additions to or improvements to property so exempt from property taxation;
(ii) Bond and interest payments;
(iii) An increase in property subject to taxation as the result of the expiration of any abatement of property from property tax;
(iv) An increase in road construction costs when such construction has been once approved by a resolution of the governing body of the city;
(v) Special assessments;
(vi) Judgments levied against the city or expenses for legal counsel and for defense of legal actions against the city or officers of the city;
(vii) New expenditures that are specifically mandated by federal or state law; or
(viii) An increase in property subject to taxation as the result of new construction.

Recommendation:
The City will need to start tracking in 2016, the above listed items that will not count towards measuring budget increases that may require an election.

The bill becomes effective upon publication in the Kansas Statutes – July 1, 2015.

HOUSE BILL No. 2142

AN ACT concerning taxation; reconciling amendments to certain statutes; amending K.S.A. 2014 Supp. 79-2925b, as amended by section 2 of 2015 House Substitute for Senate Bill No. 270 and repealing the existing section; also repealing K.S.A. 2014 Supp. 79-2925b, as amended by section 5 of 2015 Senate Substitute for House Bill No. 2109.

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

Section 1. K.S.A. 2014 Supp. 79-2925b, as amended by section 2 of 2015 House Substitute for Senate Bill No. 270, is hereby amended to read as follows: 79-2925b. (a) Without a majority vote so providing, the governing body of any municipality shall not 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, adjusted to reflect changes in the consumer price index for all urban consumers as published by the United States department of labor for the preceding calendar year. If the total tangible property valuation in any municipality increases from the next preceding year due to increases in the assessed valuation of existing tangible property and such increase exceeds changes in the consumer price index, the governing body shall lower the amount of ad valorem tax to be levied to the amount of ad valorem tax levied in the next preceding year, adjusted to reflect changes in the consumer price index. This subsection shall not apply to ad valorem taxes levied under K.S.A. 76-6b01 and 76-6b04 and section 11 of 2015 House Substitute for Senate Bill No. 7, and amendments thereto, and any other ad valorem tax levy which was previously approved by the voters of such municipality. Except as provided in subsection (g), notwithstanding the requirements of this subsection, nothing herein shall prohibit a municipality from increasing the amount of ad valorem tax to be levied if the municipality approves the increase with a majority vote of the governing body by the adoption of a resolution and publishes such vote as provided in subsection (c).

(b) Revenue that, in the current year, is 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; or

(4) property which has changed in use shall not be considered when determining whether revenue produced from property has increased from the next preceding year.

(c) In the event the governing body votes to 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 as provided in subsection (a), notice of such vote shall be published in the official county newspaper of the county where such municipality is located.

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

(e) 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.

(f) For purposes of this section, "municipality" means any political subdivision of the state which levies an ad valorem tax on property and includes, but is not limited to, any county, township, municipal university, school district, community college, drainage district or other taxing district. "Municipality" shall not include any such political subdivision or taxing district which receives $1,000 or less in revenue from property taxes in the current year.

(g) *On and after January 1, 2018:* (1) In the case of cities and counties, any resolution by the governing body otherwise required by this section to adopt any appropriation or budget which provides for funding by property tax revenue in an amount exceeding that of the next preceding year as adjusted pursuant to subsection (a) to reflect changes in the consumer price index, shall not become effective unless such resolution has been submitted to and approved by a majority of the qualified electors of the city or county voting at an election called and held thereon, except as otherwise provided. The election shall be called and held in the manner provided by K.S.A. 10-120, and amendments thereto, at the next regularly scheduled election to be held in August or November, or may be a mail ballot election, conducted in accordance with K.S.A. 25-431 et seq., and amendments thereto, or may be a special election called by the city or county. Nothing in this subsection shall prevent any city or county from holding more than one election in any year.

(2) A resolution by the governing body of a city or county otherwise required by the provisions of this section shall not be required to be approved by an election required by subsection (g)(1) under the following circumstances:

(A) The increase in the amount of ad valorem tax to be levied that is greater than the change in the consumer price index is due to:

(i) Costs for new infrastructure or improvements to existing infrastructure to support new improvements to property exempt from property taxation pursuant to the provisions of K.S.A. 79-201 et seq., and amendments thereto, such as hospitals, schools and churches, or exempt additions to or improvements to property so exempt from property taxation;

(ii) bond and interest payments;

(iii) an increase in property subject to taxation as the result of the expiration of any abatement of property from property tax;

(iv) increases in road construction costs when such construction has been once approved by a resolution of the governing body of the city or county;

(v) special assessments;

(vi) 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;

(vii) new expenditures that are specifically mandated by federal or state law; or

(viii) an increase in property subject to taxation as the result of new construction;

(B) the assessed valuation has declined in one or more of the next preceding three calendar years and the increase in the amount of funding for the budget or appropriation from revenue produced from property taxes does not exceed the average amount of funding from such revenue of the next preceding three calendar years, adjusted to reflect changes in the consumer price index for all urban consumers as published by the United States department of labor for the preceding calendar year; or

(C) the increase in the amount of ad valorem tax to be levied is less than the change in the consumer price index plus the loss of assessed property valuation that has occurred as the result of legislative action, judicial action or a ruling by the board of tax appeals.

Sec. 2. K.S.A. 2014 Supp. 79-2925b, as amended by section 2 of 2015 House Substitute for Senate Bill No. 270 and 79-2925b, as amended by section 5 of 2015 Senate Substitute for House Bill No. 2109 are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

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HOUSE adopted
Conference Committee Report ______________________

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Speaker of the House.

____
Chief Clerk of the House.

Passed the SENATE
as amended _______________________

SENATE adopted
Conference Committee Report ______________________

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President of the Senate.

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Secretary of the Senate.

APPROVED _______________________

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Governor.