

BUDGET TIPS BULLETIN FOR CITIES AND COUNTIES

2016 Guidance for 2017 Budgets

Introduction

This bulletin is issued each year to assist local officials preparing their operating budgets for the coming year. It is not a how-to-manual, but rather a report on information and ideas that may be helpful during the budget process.

For a general review of various aspects of local financial operations, the *City Clerks Manual*, the *Governing Body Handbook*, and the *Kansas Local Government Law Manual* are helpful resources. All three publications are available for purchase by calling the League at (785)354-9565 or by emailing a request to adebusk@lkm.org.

Budgeting for Cities and Counties for 2017:

- **Tax Lid:** There has been significant confusion about when the lid is effective. The tax lid law passed last year was to go into effect Jan. 1, 2018. The legislation passed this year makes the effective date Jan. 1, 2017. This means that budgets **created** after that date (e.g., 2018 budgets & beyond) will fall under the provisions of the tax lid. **THE TAX LID DOES NOT AFFECT YOUR 2017 BUDGET.**
- **Planning and Development:** As the economy looks to level out from the past six to eight years, forecasters presume this to be a year when there is a resurgence of building permits and plan reviews. As a result, increasing staff development to handle an uptick of 3 to 5% could be appropriate.¹
- **Inflation:** Inflation remains fairly stagnant this year, expected to fluctuate between a possible 0.4% to 1.0% increase.²
- **Healthcare Insurance Premiums:** Healthcare insurance premiums are expected to increase by approximately 5 to 7% over the next year.³
- **Local Economies:** The global economy stands to play a part in local governments' economies. As the U.S. dollar increases in value, it has depressed U.S. exports. States with significant amounts of oil and gas extraction programs are likely to feel the effects of steep drops in oil and natural gas prices on their local economy.⁴
- **Liability & Property and Casualty Insurance:** General liability and property and casualty insurance rates look to remain flat, with the potential for decreased property and casualty rates

1 Keating, M. (2016). Keating Report: 2016 Forecast on Government Budgets and Spending, Part 2. *American City & County*. Retrieved from <http://americancityandcounty.com/gpn/keating-report-2016-forecast-government-budgets-and-spending-part-2>

2 CPI Detailed Report (2016). *U.S. Bureau of Labor Statistics*. Retrieved from <http://www.bls.gov/cpi/cpid1603.pdf>

3 Private Health Insurance Premiums and Federal Policy. (2016). *Congressional Budget Office*. Retrieved from https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/51130-Health_Insurance_Premiums.pdf

4 Keating, M. (2016). Keating Report: 2016 Forecast on Government Budgets and Spending, Part 3. *American City & County*. Retrieved from <http://americancityandcounty.com/gpn/keating-report-2016-forecast-government-budgets-and-spending-part-3>

of 5 to 7% depending on one's environmental factors, heading into the final 2 quarters of the year and looking to maintain a flat rate into 2017.⁵

- **Penalty Tax on ACA-Compliance:** Something of note, the implementation date for city and state governments to fall in compliance with ACA defined "approved" plans without facing a 40% tax on the total healthcare premium payments exceeding \$10,200 for individual or \$27,500 for families was pushed from 2018 to 2020. Cities with 50 or more full-time employees will be impacted.
- **Worker's Comp. Insurance:** In October 2015, the Kansas Insurance Commissioner approved an 11.6% decrease in Kansas voluntary workers compensation advisory rates. An advisory rate cut of 10.4% was also approved for assigned risk workers.⁶

It is important to be in communication with your broker/agent to have an understanding of what each entities rates may be.

Budgeters are well advised to be extremely cautious and conservative, as municipalities deal with very challenging financial times.

Note: Website links provided in this document are current as of the date of publication.

5 Property & Casualty Update—US (2016). *Lockton Companies*. Retrieved from http://www.lockton.com/Resource/PageResource/MKT/Lockton_Market_Update_March_2016.pdf

6 Kansas business owners receiving workers compensation insurance rate relief. (2015). *Kansas Insurance Department*. Retrieved from <http://www.ksinsurance.org/documents/department/news-releases/Workers-comp-release-10-15.pdf>

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PART A — 2016 BUDGET CALENDAR

State laws govern the timetable for budget preparation, publication, hearing, adoption, and certification. The calendar below is based on these statutory requirements:

August 5 Last day for publishing proposed budget and hearing notice: K.S.A. 79-2929

August 15 Last day for public hearing on budget: K.S.A. 79-2933

August 25 Last day for filing levies and budget with county clerk: K.S.A. 79-1801, 79-2930

PART B – THE BUDGET'S PURPOSE

No single responsibility of a city's governing body and its chief administrative officials is more critical than the preparation and adoption of the annual budget. The budget is the principal policy management tool of the governing body. Its purpose should be more than filling out forms to comply with state law, and more than an exercise to determine how much property tax should be levied. The budget establishes priorities for the coming year and outlines how those priorities will be realized. It is a prime opportunity for the city to evaluate its current services, measure and compare needs for different services, and balance community needs against the tax burden necessary to finance them. Governing body members are urged to devote adequate time to studying the development of their city's budget. Remember, while budget preparation can be delegated to city staff, the final responsibility and approval for the budget rests solely with the elected governing body.

PART C – STATE BUDGET FORMS

STATE BUDGET FORMS: The budget forms for cities and counties are developed and administered by the Department of Municipal Services (Department of Administration), and can be found and downloaded at <http://www.da.ks.gov/ar/muniserv/default.htm>. The 2017 state budget workbooks can be found at [http://admin.ks.gov/offices/chief-financial-officer/municipal-services/municipal-budgets/budget-workbooks-\(for-budget-year-2017\)](http://admin.ks.gov/offices/chief-financial-officer/municipal-services/municipal-budgets/budget-workbooks-(for-budget-year-2017)).

The state budget forms MUST BE submitted electronically, via one of several optional methods (see above site).

Appropriation Ordinance K.S.A. 79-2934 provides that “the budget as approved and filed with the county clerk for each year shall constitute and shall hereafter be declared to be an appropriation for each fund...” At one time the state forms provided for approving, filing, and appropriating by fund the budget of the city by ordinance. *State Budget Form; Certificate* for 2017 certifies the adopted total fund amounts "as the maximum expenditure." Some cities pass an ordinance officially adopting the budget and appropriating by fund the maximum amounts to be expended. Such an ordinance is desirable and may include other budget-related matters such as staffing limitations and other policies.

PART D – ESTIMATING STATE AID AND SHARED TAXES

Introduction. This part provides an overview of the various forms of general and specific state aid received by cities from the State of Kansas.

D-1. Local Ad Valorem Tax Reduction Fund (LAVTR). This past funding source for cities and counties has been eliminated, and though there continues to be some ongoing discussion about the resurrection of this revenue stream, it does not seem likely, given the current economic times, that LAVTR will come back anytime soon.

1994 - \$42,057,992	1995 - \$44,648,745
1996 - \$46,264,850	1997 - \$47,343,822
1998 - \$47,770,566	1999 - \$57,039,876
2000 - \$56,047,305	2001 - \$54,813,490
2002 - \$54,680,671	2003 – Funding Eliminated

D-2. State Highway Aid Payments Direct. (K.S.A. 79-3425c). All cities receive directly from the state treasurer certain highway aid payments distributed on a per capita basis. Cities in counties with a population of over 34,000 (except Johnson County) also receive state payments through their county (See Section D-3 below). Payments are made from the state's "**Special City and County Highway (SCCH) fund.**" The amounts cities receive are distributed on January 15, April 15, July 15 (effective about July 24—after the state closes the FY books), and October 15.

Cities must credit their payments to a separate fund to be used for construction, reconstruction, alteration, repair, and maintenance of streets and highways. The amount may be credited to a consolidated highway fund but must be used for street and highway purposes (See Section G-14 and K.S.A. 79-3425, 79-3425c, and 79-34,104, as amended). The SCCH on average receives 35.6% of state motor fuel tax collections.

2017 SCCH Budget Estimates. Individual (each city and county) Special City and County Highway fund distribution estimates are posted on www.lkm.org

D-3. State Highway Aid Payments; Through County. Some cities also receive a share of state highway aid payments made to the county. The city's share is allocated on a population basis. (See K.S.A. 79-3425c). The city's share in Sedgwick and Shawnee counties is equal to 50% of county receipts while in Wyandotte County it is 90%. The cities share in Butler, Cowley, Crawford, Douglas, Leavenworth, Lyon, Montgomery, Reno, Riley and Saline counties is 10%. Payments to counties are made at the same time as cities (See D-2 above).

D-4. Highway Aid; Connecting Links. Cities that maintain state highway connecting links will receive \$3,000 per lane mile in 2017. Payments are made directly to eligible cities in four quarterly payments, on the first day in January, April, July, and October. Per K.S.A. 68-416 the money is to be credited to the consolidated highway fund or the street and alley fund of recipient cities and "used solely for the maintenance of city connecting links." A city may request KDOT to take over the maintenance of connecting links in lieu of receiving the per lane mile payment, but KDOT apparently has discretion as to whether it will do so. There are well over 1,000 lane miles under this agreement that cover city-maintained state connecting links.

D-5. Liquor Drink Tax. K.S.A. 79-41a01 *et seq.*, as amended, levies a 10% gross receipts tax on the sale of any drink containing alcoholic liquor sold by a club, caterer, or drinking establishment. The revenue is allocated 30% to the state and 70% to cities and counties where the tax is collected except as noted below for cities under 6,000 population. The money is distributed on March 15, June 15, September 15, and

December 15, plus an "equalization" payment on March 15 if needed.

(1) Cities over 6,000. The city share and the county share of revenue from clubs outside cities must be allocated in the following manner: 1/3 to the general fund, 1/3 to a special park and recreation fund, and 1/3 to a special alcohol and drugs program fund. K.S.A. 79-41a04(d).

Cities under 6,000. Cities less than 6,000 receive 46 2/3% of the liquor tax collections. These moneys must be allocated ½ to the general fund and ½ to the special parks and recreation fund. K.S.A. 79-41a04(d).

(2) Use of Moneys. K.S.A. 79-41a04(d) specifically requires that moneys in the special alcohol and drug programs fund shall be expended for services or programs "whose principal purpose is alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse, or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers." Special provisions exist for Butler County.

Estimated Revenue. The estimated amounts for each county and city are posted on www.lkm.org.

D-6. Selected Grant Payments. (a) *Health.* Local units may obtain information on federal and state health grants from the Kansas Department of Health and Environment by visiting <http://www.kdheks.gov/olrh/ruralgrantresources.htm>.

(b) *Firefighter's Relief Tax.* This is not a state payment to cities since the city governing body has no discretion as to its use. It is a tax of 2% on fire insurance premiums written in the state. (K.S.A. 40-1703). It should not be budgeted as a revenue source or expenditure.

(c) *Libraries.* Data on state appropriated grants to local and regional library systems can be obtained by contacting the State Library, State Capitol, Room 312-N, 300 SW 10th Ave., Topeka, KS 66612 (785-296-3296) or (800-432-3919) or, by visiting <http://www.kslib.info/>.

D-7. Other Information on Federal or State Grant Programs. Both federal and state grants are exempt from local budgeting requirements. K.S.A. 12-16,108 through 12-16,111 states that "Any money received by a municipality from a state loan or grant may be expended without regard to budget limitations and such expenditures shall not be charged against the budget."

NOTE: FEMA payments (reimbursements) are NOT subject to the Kansas budget law.

PART E – AGGEGRATE PROPERTY TAX REQUIREMENTS

E-1. State Forms. *State Budget Form, Tab*, titled "Computation" is a worksheet that has been in place since the elimination of the tax limit law in 1999—instructions are found in the budget packet. Budget preparers who follow these forms and the related instructions, step-by-step, will find it relatively easy to meet the mechanical requirements of the budget law when the necessary information is available. The manual and instructions with a full description of this process can be found on the Municipal Services website, at <http://www.da.ks.gov/ar/muniserv/default.htm>.

Go to <http://www.da.ks.gov/ar/muniserv/> for a complete overview of the Budget process for cities and counties, and the DAR's services related to those processes.

E-2. Delinquent Taxes. The budget forms contain procedures for tax delinquency calculations. The allowance for delinquencies, under K.S.A. 79-2930, allows for the actual prior delinquent tax rate plus five (5%) percentage points. The amount budgeted for delinquency reduces the amount of taxes that may be spent in a budget fund. Please note that municipalities pursuing the collection of delinquent taxes are able to participate in the state administered debt set-off program. (See K.S.A. 75-6204 and attachments to the *State Budget Form*).

CAUTION: For 2017 Budgets—Budgeters are advised to be very careful about making sure local budget projections are *up-to-date* and delinquency rates are checked thoroughly with the County Clerk.

E-3. Libraries. Cities may wish to consider passing an ordinary ordinance limiting the taxing authority of a city library created under K.S.A 12-1218 *et seq.* Without such a tax levy limitation imposed by local ordinance, a city library will have no statutory taxing limitations in place. Charter ordinances already in effect that established tax levy limitations for city libraries will continue in force. (See AG Opinion No. 99-27). **This may become even more important for the 2018 budget as the new tax lid goes into effect.**

E-4. Debt Limits. Debt limit provisions are found in K.S.A. 10-308, which limits total bonded indebtedness to 30% of assessed valuation. Under another part of the former tax lid law in K.S.A. 79-5039, the governing body of any taxing subdivision may elect to have the bonded indebtedness limitation of the taxing subdivision computed on the basis of a percentage of assessed valuation. This percentage is determined by dividing the amount of indebtedness authorized for such taxing district in 1988 by the assessed valuation of all tangible taxable property in the taxing subdivision in 1989.

PART F – PROPERTY TAX; RATES AND FUNDS

F-1. Certify Amount—Not Rates. K.S.A. 79-1801 provides that local units certify property tax amount requirements, not levy rates. The county clerk computes the actual, final tax levy rates.

F-2. Eliminate Special Funds. While it is *generally recommended* that special tax levy funds that duplicate purposes that may be legally covered by the general fund be eliminated, many cities continue to budget for these funds individually, in order to track expenses and revenues in a more controlled fashion. Certainly, either method is permissible.

F-3. Check with County Clerk. Pursuant to K.S.A. 79-1965, the county clerk is required to reduce unlawful, excessive tax levies, and must give not less than seven days' notice to the taxing subdivision affected before making any adjustment in a tax levy that has been certified. City clerks are advised to contact their county clerk, to make sure the county clerks are fully informed in advance of any changes made to a city budget that may be out of the ordinary.

PART G – RESERVE AND SPECIAL FUNDS; BUDGET LAW EXCEPTIONS

G-1. General. In general, (1) public funds may not be expended unless budgeted; (2) moneys in a fund,

unexpended at the end of the year, must be re-budgeted as a receipt and budgeted as an expenditure before the money may be spent; and (3) moneys may not be transferred from one fund to another. Presented below is a summary of the principal reserve and special funds authorized by state law. Please note that the *State Budget Form* contains a section in which cities are required to list the budgeted transfers between funds, as well as to cite the source of their authority to do so. The authority is available on the tab labeled "*Transfer Statutes*" on the State Budget form although, cities can create additional authority by passing local ordinances as well.

Moneys in a reserve fund, following a budgeted transfer may be spent without annual re-budgeting. When transfers are made from an operating fund to a reserve fund, the transfer is shown as an expenditure. The receipts and disbursements of a reserve fund must be shown in the annual budget for information purposes.

G-2. Equipment Reserve Fund. K.S.A. 12-1,117 provides the following: "The governing body of any city may provide, by adoption of an ordinance, for a municipal equipment reserve fund to finance the acquisition of equipment. Moneys may be budgeted and transferred to such fund from any source which may be lawfully utilized for such purposes, including equipment use charges on the various departments and agencies of the city to finance new and replacement equipment." An equipment reserve fund offers a city the opportunity of systematically saving a pre-determined amount for equipment replacement as it is being depreciated.

G-3. Capital Improvement Fund. K.S.A. 12-1,118 specifically authorizes cities that have formally approved a *multi-year capital improvement plan*, to establish a capital improvement fund. Moneys may be credited to the fund by budgeted transfers, with any property tax levied for the fund to be authorized by an ordinary ordinance. Moneys in the capital improvement fund may be used to finance any public improvement in the adopted capital improvement plan including the repair, restoration, and rehabilitation of existing public facilities. As in the case of the equipment fund noted above, the capital improvement fund may be used both as a current year's operating fund as well as a reserve fund. There is broad authorization to invest moneys in this fund. Also K.S.A. 12-1737 permits the establishment of a special building fund, which may be financed from tax levies, transfers, and other revenue sources.

G-4. Highway Improvements. K.S.A. 68-589 *et seq.*, authorizes all cities and counties to establish a special highway improvement reserve fund (See Section G-3 above on alternative approaches).

G-5. Machinery; Bridges. All cities and counties may use K.S.A. 68-141f and 68-141g to create a "special road, bridge or street building machinery, equipment and bridge building fund" by providing for the transfer of funds not to exceed 25% of the amount budgeted for such purposes from the special fund (See Section G-2 and G-3 above for information on alternative approaches).

G-6. Sewer and Wastewater Funds. Cities are permitted to establish reserve funds for the maintenance, operation, and expansion of sewerage systems. Moneys credited to the reserve fund may come from a variety of sources such as property taxes or sewer service charges (See Section G-3 above for information on alternative approaches).

G-7. Special Improvement Fund. Under K.S.A. 12-6a13, any city may levy a tax for a "special improvement fund" to be used in connection with "6a special assessments." Expenditures from the fund may be reimbursed by special assessment bond funds.

G-8. Noxious Weed Capital Outlay Fund. K.S.A. 2-1318 permits the transfer of funds from a noxious weed

eradication fund to a noxious weed capital outlay fund of any moneys remaining at the end of the year (See Section G-3 above for information on alternative approaches).

G-9. Workers' Compensation Reserve Fund. K.S.A. 44-505f authorizes cities to establish a reserve fund when acting as a self-insurer for workers' compensation. Moneys in the fund may come from a special tax under K.S.A. 44-505c or from transfers.

G-10. Special Liability Expense Fund. K.S.A. 75-6110 authorizes a special liability expense fund to pay costs resulting from the Kansas Tort Claims Act. The fund may be used as an operating fund and/or as a reserve fund. As an operating fund, a special property tax may be levied, or moneys transferred from other existing funds. It is used as a reserve fund primarily if the unit is self-insuring some or all of its tort liability expense (See Section L-30 for additional information).

G-11. Risk Management Reserve Fund. K.S.A. 12-2615 authorizes the establishment of a risk management reserve fund. A special tax is not authorized (See Section L-31 for additional information).

G-12. Utility Depreciation Reserve. Cities are authorized to establish depreciation reserve funds for municipal utilities set aside from surplus. While not explicitly required, the amount set aside must be from authorized budgeted expenditures. If an unanticipated utility surplus reserve occurs, the budget may be amended to authorize the expenditure as a transfer to the depreciation reserve fund.

G-13. Public Safety Equipment—Ambulances. Cities may levy a tax to create a special fund for law enforcement purposes or for the purchase of fire equipment or ambulance equipment under K.S.A. 12-110b. This is not legally a reserve fund and the amount must again be budgeted each year until spent. Such equipment may also be purchased under K.S.A. 12-110a. Under K.S.A. 12-110c, bonds may be issued for up to 15 years to purchase fire equipment, subject to a petition for a referendum.

Under K.S.A. 12-110d, a special fund for replacement of ambulances or emergency medical service equipment may be established from moneys not needed for operating purposes. In contrast to K.S.A. 12-110b, the fund created under K.S.A. 12-110d is a true reserve fund (See Equipment Reserve Fund, Section G-2).

G-14. Consolidated Highway Fund. K.S.A. 12-1,119 authorizes cities to establish by ordinance, a consolidated street and highway fund to receive: (a) state highway connecting link payments, (b) special city and county highway fund aid moneys, and (c) budgeted transfers from the general or other operating funds of the city to be used solely for street and highway purposes. Moneys received for connecting links and placed in the consolidated fund must be used for that purpose. Please note that this is not a reserve fund.

G-15. Other Special Funds. K.S.A. 12-1674a provides for a special services fund in connection with special assessments levied for services by Johnson County cities. K.S.A. 13-10,140, applicable to Kansas City, and K.S.A. 79-1950b, applicable to Wichita, provide for a special improvement fund. K.S.A. 13-14b12 provides for a hospital capital improvement fund in cities of the first class. K.S.A. 79-2925 authorizes airport revolving funds and a special recreation facilities reserve fund, K.S.A. 13-1348d, in Wichita. K.S.A. 12-2202 and K.S.A. 13-1379 provide for special off-street parking revolving funds.

G-16. Other Budget Exemptions. As previously noted, the status of reserve funds should be shown in the budget, some special funds never show up in the budget for proposed expenditures. Examples are gifts and bequests. Federal aid funds may be expended without budgeting (See K.S.A. 12-1663). The actual

expenditure of such special funds may be included in the budget. Meter and utility deposit funds are sometimes not budgeted if adequate budget authority otherwise exists for such refunds.

G-17. Dealing With Transfers. One of the problems associated with the use of fund transfers is that it can result in "double budgeting." For example, if \$10,000 is transferred from the utility fund to the general fund, the same \$10,000 is treated as revenue to the general fund and expenditure to the utility fund. When the amount of transfers is substantial, the public may not understand what is really taking place.

NOTE. State budget forms contain a requirement for listing all the transfers on one page, entitled "Transfers". Budgeters are required to list a statutory reference for each transfer (though local authority, via city ordinance, will also suffice for cities).

PART H – ESTIMATING PROPERTY AND IN LIEU TAX REVENUE

H-1. Tangible Property Taxes. K.S.A. 79-5a27 requires the county clerk to notify every taxing subdivision by July 1st of its assessed valuation. It is likely that many units will not have final valuation totals until later. Assessment appeals and protests, including those before the state board of tax appeals, must be considered, requiring an educated guess and cooperation with the county appraiser.

The amount of property taxes actually levied by the budget will not be increased by the county clerk just because final valuation figures are higher than estimated when preparing the budget. In lieu of tax payments can be estimated in conjunction with the county clerk and treasurer based on any tax exemptions and/or abatements of the city that involve "in lieu of tax" payments.

H-2. Special Motor Vehicle Taxes. Since 1981, most motor vehicles became subject to a special tax paid at the time of registration instead of the traditional property tax under K.S.A. 79-5101 *et seq.* In 1994, the legislature created a separate system for taxing most recreational vehicles, but revenue is distributed in the same fashion as the vehicle tax. For purposes of this bulletin, both will be referred to as "vehicle taxes." Following a law change in 2002, anyone who purchases a vehicle in an area other than where they live must pay the difference in the sales tax rate when the vehicle is registered and tagged (provided that the area in which they live has a higher sales tax then the area in which they purchased the vehicle). No credits are given when the person purchases a vehicle in an area with a higher sales tax then the area in which they live.

Among other things, K.S.A. 79-5109 provides for the distribution of revenue from the special vehicle tax among all taxing subdivisions (including the state). This division is made in proportion to their respective share of the prior year's total levy rate within the "tax levy unit" in which the vehicle has its tax "situs" (origin). Secondly, the law requires the budgets of taxing subdivisions to show estimated revenues from the vehicle tax as a source of income by fund. Vehicle tax revenue is proportionately allocated to each fund on the basis of relative property taxes for the prior year.

K.S.A 79-5111 requires the county treasurer to notify each taxing unit by May 10 of the estimated amount that it is to receive the following year from the special tax. The county treasurer is to distribute the special tax money with the regular property tax distributions, plus a December distribution (See *Distribution of Taxes*, Section H-3, below).

H-3. Distribution of Taxes. Under K.S.A. 12-1678a, the county treasurer is required to distribute the estimated amount collected and owed to each taxing subdivision on January 20, June 5, and October 31, but not less than the actual amount collected 20 days prior to these dates. On March 20, and September 20, the treasurer is required to distribute not less than 95% of the estimated amount collected, but not

less than the actual amount collected 20 days prior to these dates. These distribution dates are to be followed unless an intergovernmental agreement is entered into between the board of county commissioners and the governing body of the taxing subdivision, providing for an alternative method. This could include, for example, less frequent distributions with a provision that the county treasurer's share with the taxing subdivision a portion of the interest earned on invested taxes. Requests for advance payments are covered by subsection (c)(3) of K.S.A. 12-1678a. Regulations from the U.S. Department of Housing and Urban Development, under the Real Estate Settlement Procedures Act (RESPA), require mortgage companies to pay ad valorem taxes in installments. This could mean a significant reduction in the amount of taxes distributed on January 20, and a commensurate increase in the amount distributed in June of each year, after the second payment in May (See Section L-5 for further information about any investment earnings impact).

PART I – SOURCES OF NON-PROPERTY TAX REVENUE

I-1. Revenue Source Information. For information on revenue sources, see the *Governing Body Handbook* or the *City Clerks Manual*. Both publications are available for purchase from the League. For the remainder of this section, only certain major non-property tax options are summarized.

I-2. Local Sales Taxes. Some basic provisions of the Sales Tax Act [K.S.A. 12-187 et seq.] are as follows: (1) Local sales tax can be raised only in increments of .05%, and cannot exceed 2% for general purposes [K.S.A. 12-189]; (2) Another 1% may be added for special purposes, which must expire 10 years after the tax is first collected [K.S.A. 12-189]; (3) Retain any Development Excise Tax that was in existence prior to January 1, 2006 and can increase the excise tax if approved by public vote [K.S.A. 12-194]; (4) A city can levy an excise tax on tickets to various events that take place on city owned property [K.S.A. 12-194].

City sales taxes are returned directly to the city in which they are collected. County sales taxes are split between the county and the cities within that county through a statutory formula. The city's share of a countywide sales tax is paid directly to the city. All revenues derived from sales taxes are credited to the general fund unless local authority allows otherwise.

NOTE. K.S.A. 12-189a—was amended by the 2003 Legislature to eliminate the collection of local sales tax on noncommercial use of water effective January 1, 2006. This change was made as part of the numerous amendments made to the sales tax act in 2003 to bring Kansas into compliance with the Streamline Sales Tax Agreement.

I-3. Streamlined Sales Tax. In 2003, the legislature passed the necessary revisions needed to bring Kansas' sales tax laws into compliance with the uniformity needs of the streamlined sales tax (SST) project and to permit Kansas to participate in the program. Key to the success of this legislation was the inclusion of "local compensating uses taxes". The local component of the compensating use tax is needed for the collection of local sales tax on internet and other remote sales. There are short and long-term benefits to this legislation. In the near term, cities will be able to collect compensating use taxes on goods purchased outside of the state by entities within their jurisdiction. In the long run obviously, taxation of remote internet and catalog sales will yield new moneys as a result of the application of a sales tax to remote sales. The long run benefits will not be fully seen until voluntary collection agreements with remote vendors are established and/or federal legislation is finalized to permit collection. At this time, there are several national companies that are voluntarily collecting tax on remote and internet sales.

I-4. Local Compensating Use Tax. Legislation passed in 2003 made compensating use tax (CUT) apply to local purchases of out-of-state goods (CUT was applicable only to the state sales tax until that time). To view all cities' and counties' Calendar Year 2015 and 2016 CUT amounts, go to:

<http://www.ksrevenue.org/pdf/CY15LocUseTaxDist.pdf>

<http://www.ksrevenue.org/pdf/CY16LocUseTaxDist.pdf>

The 2003 law also introduced the concept of “**Destination Sourcing**”, which means that sales tax is now collected at the point of DELIVERY of goods and services (as opposed to where the sale occurs). While primarily a tool to ensure taxation fairness on internet purchases, Destination Sourcing also allows for potentially-significant amounts of local sales tax revenue for even very small cities, even though the city may not have much, if any, retail sales within its own borders. But remember, each city must pass a sales tax referendum in order to collect any sales tax revenue. Local sales tax collected on delivered sales outside the city, such as delivered goods from other cities or sales off the internet are shown on city tax receipts as Compensating Use.

I-5. Gross Earnings Tax on Intangibles. The governing bodies of counties, cities, and townships may levy a tax on the gross earnings of resident individuals and businesses from intangibles, primarily interest earnings on investments (K.S.A. 12-1,101). Cities that levy the local intangibles tax may set the rate between 1/8 of 1% (0.125) and 2¼% (2.250). The Kansas Department of Revenue provides intangibles tax return forms that are filed with the state and then returned to the county. The local intangibles tax then is assessed and subject to collection and distribution by the county in the same manner as the general property tax. Local voters may petition for a referendum on the question of repealing a local intangibles tax and authorize additional property taxes, sufficient to replace the lost revenue. A city governing body may levy this tax by ordinance (no referendum required), even if the voters in the past voted to repeal the tax.

The gross earnings tax is often considered one of the fairest revenue sources legally available to cities, especially with the substantial exemptions provided by state law for the elderly.

I-6. Transient Guest Tax. Cities and counties are authorized to levy a transient guest tax on hotel, motel, and bed and breakfast room rentals. The applicable statute (K.S.A. 12-1697 *et seq.*) is subject to Home Rule charter.

Under the statute, the amount of the tax rate may not exceed 2% received for sleeping accommodations and the revenue must be credited to a "convention and tourism promotion" fund. However, home rule modifications may be made to these statutory rates and purposes (and have been by a number of cities). The tax is collected by the Kansas Department of Revenue, with 2% of the revenue retained by the state to defray the expense of administration and the rest returned to the levying unit. Since this tax is “non-uniform”, a number of cities have chosen to charter out, and have increased the rate up to as much as 9%.

I-7. Other Non-Property Taxes. The principal other local non-property tax sources include occupational taxes and utility franchise fees or taxes. These local tax sources are reviewed in the *City Clerks Manual* and the *Governing Body Handbook*.

I-8. Non-Tax Revenue Sources. Most Kansas municipalities receive substantial revenue from local non-tax sources. These include such items as, (1) sewage service charges, (2) refuse collection and disposal fees, (3) special assessments, (4) recreational fees (such as swimming pool and golf course), (5) traffic fines and municipal court costs, (6) utility fund transfers, (7) investment earnings, etc. (See note about RESPA in

Section H-3).

I-9. Franchise Fees. Franchise fees are added to franchised utility bills and sent directly back to municipalities' budgets. Franchise fees represent an increasingly important aspect of most cities' revenue streams. They also represent one of the mechanisms available to "spread" the costs of local government services over a wide range of taxpayers, somewhat "lightening the load" on any one group (i.e., property taxpayers). A common rate of franchise fee assessment is 5% of gross receipts. Cities may not charge an unreasonable franchise fee and it is important to understand that a franchise fee is passed on by the utility provider directly to their customers who are the citizens of the city. Remember that telephone & cable fees are limited by statutes.

Franchise Fees in Newly-Annexed Areas.

K.S.A. 12-2016 requires some specific procedures to be followed before franchise fees can take effect on electric and natural gas in newly-annexed areas.

Natural Gas Franchise Fees: It is important that these franchise agreements capture both end user gross receipts as well as a transportation charge per mcf of gas transported in a cities' right of ways.

Telephone Franchise Fees: As a result of an FCC administrative ruling (spring of 2002), there can be no franchise fee collected on the modem/internet portion of a cable TV bill from the franchise fee calculation. In recent years, 'bundling' of multiple phone line or cable services (TV, phone and internet) have caused questions to emerge concerning the applicability of franchise fees to telephone services, and disputes remain unresolved in several instances. K.S.A. 66-2017, passed in 2013, could be construed as preventing the collection of franchise fees on the phone portion (commonly known as VOIP) of these services.

PART J – PERSONNEL AND FRINGE BENEFITS

J-1. Workers' Compensation. It is believed that there should be no large swings in rates in 2017. Of course you will need to look at your city's loss experience as well as any changes in your payroll that will affect the premium. Budgeters are advised to be cautious when estimating workers' comp costs. The move to the prevailing factor rule in Kansas may very well create some stability in the market; however, it will take several years to know for certain.

J-2. Unemployment Insurance. Liable employers, under the Kansas Employment Security Law, fall into one of three main categories: contributing, reimbursing, or rated governmental, depending on the method of financing the employer uses to satisfy the unemployment compensation tax liability. Most governmental employers have selected the rated government employer option. The rated governmental payment method provides a computation date of March 31 and notifies the employer's benefit cost rate in June of each year. Governments that adopt this category will likely pay the minimum of 1/10th of 1% of total payroll. However, some smaller units will pay much more. Be sure to check your city's rate. Those few units that use the contributing or reimbursing employer option should probably budget the same amount for 2017 as they did for 2016, with adjustments for known separations that must be compensated. The costs of unemployment insurance may be paid from the fund from which wages are paid, from a separate fund, or from an employee benefits fund (See Section J-10). For additional information, call the Kansas Department of Labor at (785) 296-5000 or access their home page at <http://www.dol.ks.gov/>.

J-3. Social Security. The 2016 social security contribution rate for employers and employees is 7.65% (OASDI at 6.20% and Medicare at 1.45%). The 2017 rates will not be published until October of this year. The maximum wage base that benefits are computed for social security purposes is currently \$118,500. For Medicare's Hospital Insurance (HI) program, the limit for Medicare has been eliminated. Thus, all wages are subject to the Medicare tax. Budgets for social security payments should reflect the broader coverage requirements of federal law to include any position that is part-time, e.g., governing bodies, city attorneys, etc. Be sure to double-check an employee's name against their signed W-2 form. A separate tax may be levied under K.S.A. 74-4967 for the employer's portion of social security or it can be included as part of an employee benefits fund (See Section J-10). See Social Security and Medicare rates at: <https://www.ssa.gov/oact/cola/cbb.html>.

J-4. Retirement; KPERS General. Because of 2012 legislation, local government employers' contributions began to increase at a faster rate in January 2014. In the past, the increase was capped at 0.6% by statute. The new caps are as follows: 2015, 1%; 2016, 1.1%; 2017+, 1.2%. Keep in mind when budgeting in the future that the above rates are caps and if an employer is at the actuarially required rate the full cap increase may not be needed. This rate does not include the death and disability portion of your employers' contribution rate, as this rate potentially varies from one employer to another. When this rate is included, typically 1 percent, the total employer contribution rate, for calendar year 2017, will be approximately 10.18%. Refer to your certification letter for your city's total contribution rate, or contact KPERS toll free at: 1(888)275-5737, or visit the web site at www.kpers.org.

Historic rates:

2002-3.52%	2006-3.81%	2010-6.14%	2014-8.84%
2003-3.07%	2007-4.31%	2011-6.74%	2015-9.48%
2004-3.22%	2008-4.93%	2012-7.34%	2016-9.18%
2005-3.41%	2009-5.53%	2013-7.94%	

Employers may, (1) levy a tax for their contribution; (2) pay their contribution from the fund from which salaries are paid; (3) form an employee benefits fund (See Section J-10, below and K.S.A. 74-4920). As of July 1, 2009, any newly hired employee has had first day membership in KPERS. This means that cities must anticipate the employer match for any new hires.

Also it is important to keep in mind that new hires beginning January 2015 have been signed up for the Cash Balance Plan. Under this plan municipalities contribution will be governed by years of service as follows: 1-4 years = 3%, 5-11 years = 4%, 12-23 years = 5%, 24 years+ = 6%. Be sure and contact KPERS if you have any questions concerning this plan.

J-5. Retirement; Police and Fire. A special division within KPERS exists for police and firefighters (KP&F), which provides substantial benefits paid largely by the employer. The rate of contribution is computed separately for each unit except for the first year's rate, which is 16% of gross compensation. The Local Employer Uniform Rate for 2016 is 20.42%. Police and firefighters now under KPERS may be transferred to KP&F for future service only. Due to changes made in 2013, regular KP&F members now contribute 7.15% for all years of service, but there are variations. Also, the 2013 changes increased the benefit from 80% to 90% of the final average salary. Most local units of government pay the cost from a separate fund under K.S.A. 74-4967, or from an employee benefits fund.

J-6. KPERS Accounting and Financial Reporting Changes. The Governmental Accounting Standards Board (GASB) approved two new accounting and financial reporting standards for public pension plans that will affect KPERS and affiliated employers. The following KPERS bulletin helps explain how this change will affect employers, <http://www.kpers.org/employers/gasb.html>.

J-7. Salaries and Fringe Benefits. This item is the largest single operating expense, often comprising a majority of the expenses of the general budget. It is important to consider any anticipated increases in fringe benefit costs. If the city or county expects to hire additional employees in the next year, that must be accounted for as well.

J-8. Health Insurance. Though some municipalities had seen health insurance premiums stabilize just a bit in recent years, health care cost variables (treatment, drugs, etc.) continue to escalate, and the effects of the Affordable Care Act are still being discovered. Municipalities are best advised to continue to build in a 5-10% margin for unexpected/unknown health insurance premium increases. It is important for a municipality to develop a relationship with their broker or agent and ask the broker/agent to assist in forecasting premium costs.

J-9. Overtime and Minimum Wage. The federal Fair Labor Standards Act (FLSA) is applicable to public employers and employees. In brief, FLSA requires covered employees to be compensated by at least the federal minimum wage for all hours worked.

Overtime must be compensated at a rate of at least 1½ times the employee's regular rate of pay for all hours worked in excess of 40 hours in any 168 consecutive hour period of time (noted as the "work week"). The law permits local governments to give their employees compensatory time off, in lieu of overtime pay in cash, at a rate not less than 1½ hours off for each hour of overtime worked (a manual entitled "*The Fair Labor Standards Act: A Handbook for Kansas Municipalities*" is available from the League for a nominal charge).

The federal minimum wage increased to \$7.25 per hour on July 24, 2009, as did the Kansas rate. The Kansas wage is now \$7.25 per hour, with overtime compensation required for work in excess of 46 hours per week, and with special rules for law enforcement and fire department employees. Some local employees not subject to the federal act are subject to the state act (See K.S.A. 44-1201 *et seq.*).

J-10. Employee Benefits Fund. K.S.A. 12-16,102 authorizes cities, counties, and other taxing subdivisions to create an employee benefits contribution fund for the purpose of paying the employer's share of certain employee benefits and to levy a separate property tax for this purpose. The benefits covered by the fund must be within the law and prescribed by ordinance. The fund may cover any employee benefits, "exclusive of any salaries, wages, or other direct payments to such employees." To levy property taxes for this fund, it is necessary to establish the fund by ordinance prior to budget approval and certification.

An ordinance establishing an employee benefits fund and prescribing its purpose, including health care costs, is essential to levy a separate tax for the employer's share of employee benefits.

J-11. Deferred Compensation. Local governments are authorized to provide for the voluntary participation of their employees in the Kansas Public Employees Deferred Compensation Plan. The act was sponsored by the League to permit local public employers to provide an employee fringe benefit at a modest administrative cost to the employer. Under a deferred compensation plan, the amount of compensation deferred, and any investment earnings thereon, become subject to federal and state income taxation at the time the employee or beneficiary receives the income, usually at retirement. The deferred amount is part of the KPERS base (i.e., it is considered salary). There are other deferred compensation plans available, which may be provided for by home rule ordinance.

PART K – COST AND PRICE TRENDS

The Consumer Price Index (CPI), maintained by the Bureau of Labor Statistics (BLS) of the U.S. Department of Commerce, indicates the change in the cost of living or prices paid for consumer goods and services. The Consumer Price Index is typically released during the third week of each month. Under the new BLS index, the average 1982-1984 is the base year and is assigned a value of 100.

Over the last year, the Consumer Price Index has increased 0.2% percent. Inflation is expected to continue “creeping up” during the coming months. The CPI will be used in determining the need for a public vote to increase property tax rates for the **2018 budget** calculation.

Reminder: There is an online service that updates information related to consumer prices. The information is available here http://data.bls.gov/timeseries/CUUR0000SA0?output_view=pct_12mths .

PART L – MISCELLANEOUS BUDGET TIPS

L-1. Budget Adjustments and Amendments. Under K.S.A. 79-2930, the amount in each adopted budget fund may be less, but not more than the amount published in the proposed budget for public hearing. During the year, expenditures in excess of the budget may be made with the approval of the state board of tax appeals. In addition, under K.S.A. 79-2929a, budgets may be amended during the year, following publication and public hearing, when unanticipated non-property tax revenues are available (See K.S.A. 79-2939 and the *State Budget Form*).

L-2. Budgeting a Non-Appropriated Balance. K.S.A. 79-2927 specifically authorizes local taxing units (other than school districts and community colleges) to annually budget a non-appropriated balance not to exceed 5% of each fund total. It does not change the requirement that balances at the end of the year must be carried forward to the credit of the fund for the next budget year. The intent of this provision is to encourage multi-year financial planning by authorizing local units to specifically budget up to 5% of a fund balance for a non-appropriated reserve balance.

L-3. Account Changes within a Fund. Amounts specified within a budgeted fund such as the general fund, may be changed during the budget year. This should be done by ordinance or resolution (See K.S.A. 79-2958 related to discontinued funds and K.S.A. 79-2934 related to the handling of reimbursed expenses).

L-4. Inter-fund Transfers. As a general rule, money may not be transferred from one fund to another, absent statutory authorization. K.S.A. 79-2934 provides that the "budget as approved...shall constitute...an appropriation for each fund...and the appropriation thus made shall not be used for any other purposes. Further, no part of any fund shall be diverted to any other fund...except as provided by law." There are a number of these exceptions. It is common for cities to transfer certain utility surplus moneys to the city's general fund under K.S.A. 12-825d. It is also common to budget in anticipation of certain expenses and charge them to multiple funds. Please note that the *State Budget Form* contains a line item on which cities are required to list the budgeted transfers between funds in budget year (See Part G, Reserve and Special Funds; Budget Law Exceptions). The State Budget Form also requires legal citation.

L-5. Investment Earnings. Investment earnings have remained at record lows since the stock market ‘downturn’ in the third quarter of 2008. Expect interest rates to remain flat so budget conservatively for interest earnings.

Expanded Investment Powers. The governing body of cities and counties are authorized to invest and reinvest public funds pursuant to conditions prescribed in K.S.A. 12-1677b and an adopted investment policy. The same investments described in K.S.A. 12-1675 are allowed, but maximum maturities are limited to four years. Legislation passed in 2014 amended K.S.A. 12-1675 to add federal agency securities, excluding mortgage-backed securities, to the list of authorized investment options. The city or county investment policy must be reviewed annually by the Pooled Money Investment Board. Information on the Pooled Money Investment Board can be found here <https://pooledmoneyinvestmentboard.com/>.

Remember that in times of decreased interest earnings, it can be tempting to invest public funds in U.S. savings bonds or mutual funds, but these are not authorized investments. **Cities and counties are allowed to only invest in those securities that are specifically outlined in Kansas statute.**

L-6. Investing for Special Funds. Some statutes provide special investment authority, notably K.S.A. 10-131 relating to the investment of proceeds of bonds and temporary notes. The investment options in K.S.A. 10-131 are considerably broader than under the general investment statute. Moneys in a municipal equipment reserve fund under K.S.A. 12-1,117 and in a capital improvement fund authorized by K.S.A. 12-1,118 may be invested in accordance with the provisions of K.S.A. 10-131. Since these two funds may be used as operating and reserve funds, full use of these funds and prudent investment discretion could increase investment earnings.

L-7. Auditing and Accounting. Under K.S.A. 75-1122, every municipality (certain township exceptions) with gross receipts in excess of \$500,000, or with general obligation or revenue bonds in excess of this amount, must have an annual audit. Municipalities may charter out of this requirement. Further, K.S.A. 75-1120a requires every municipality to utilize accounting and fiscal procedures conforming to Generally Accepted Accounting Principles (GAAP) except those cities who have ‘waived GAAP’ (as the majority does). If a city does have an audit performed, changes made by the Legislature in 2014 now allow for certain audits and supporting documents to be filed with the Kansas Department of Administration (KDA) and KDA will be the central location for all other state agencies to find needed reports. These changes should simplify financial reporting by municipalities.

A municipality with gross receipts less than \$500,000 and not engaged in the operation of a utility is not required to maintain fixed asset records. The governing body of a municipality may adopt a resolution waiving conformance to GAAP (including fixed asset inventories), and many cities do just that. This action **MUST** be taken each year, however. New regulations at the Division of Accounts and Reports have eliminated the requirement of submitting the waiver resolution to the state. (Visit the Office of Management Analysis and Standards website regarding waiving GAAP requirements at: <http://www.da.ks.gov/ar/muniserv/GaapWaiverProcedures.htm>). Cities who have been complying with GAAP, but who do not wish to continue based on “GASB 34” (new and more detailed reporting—see below), may do so by waving GAAP (as above). However, cities cannot continue to do GAAP and not also come under GASB-34.

GASB-34 is a guideline for financial reporting which was issued by the Governmental Accounting Standards Board (GASB) in 1999, which requires cooperating governments at all levels to adopt new procedures for depreciating and reporting inventory and infrastructure. GASB-34 is not mandatory for any governmental entity, and cities may waive GASB-34, just as most have always “waived” GAAP (but cannot do GAAP and not do GASB-34—see above). As a general rule of thumb, most cities under 10,000 are

choosing to not follow GASB-34, and larger cities are choosing to establish and follow GASB-34, though notable exceptions certainly exist. For more information, see www.gasb.org.

L-8. Payroll Deductions; Insurance. There is no general state law authorizing cities to make payroll deductions or to provide for city contributions toward health insurance or other employee benefits. This is an exercise of constitutional home rule and should be provided for by an ordinary ordinance.

L-9. Unclaimed Utility Deposits. K.S.A. 12-822 establishes a procedure for the disposition of unclaimed municipal utility deposits that may revert to the utility fund. In the absence of local action, such unclaimed deposits may be claimed by the state under K.S.A. 58-3951 *et seq.*

Please note that the calendar year 2016 interest rate paid on utility deposits prescribed by K.S.A. 12-822 is .51%. The Kansas Corporation Commission determines this rate annually. The current rate is available at: http://www.kcc.state.ks.us/pi/interest_rate.htm.

L-10. Election Expense. K.S.A. 25-2201 provides that the expense of local elections held on the same day that a primary, general, or referendum election is held, where every voter of the county may vote, shall be a county expense and not charged back to the city, although the costs of publication of notices of city elections must be reimbursed to the county. It also is advisable to budget a contingency for special elections that the governing body may call. **With the tax lid going into effect with the 2018 budget, budgeting for a special election may become more important.**

L-11. Utility Costs. Both (investor-owned, private) electric and natural gas prices have been fairly stable over the past several years. Air-quality regulations are expected to cause electric rates to go up some in the coming years, perhaps by as much as 10%.

L-12. Motor Fuel Costs. Gasoline and other motor-fuel prices have fallen from the highs of 2013 and appear to be remaining flat. It is always best to be conservative when estimating fuel costs but, most forecasts appear to be anticipating a continuation for 2016 of less volatility in fuel prices. Form 4136--*Compensation of Credit for Federal Tax on Gasoline and Special Fuels*, and Form 843-*Claims* can be found at <http://www.irs.gov/uac/Form-4136,-Credit-for-Federal-Tax-Paid-on-Fuels>. These forms can be used to claim refunds of federal motor fuel taxes.

L-13. Travel Expenses. The IRS requires that employer mileage reimbursements, where the reimbursement rates exceed the standard mileage rate established by the IRS (**the current IRS rate, as of January 1, 2016, is 54¢ per mile**), be reported on employee's W-2 Forms. Employees can file a Form 2106 to claim any excess of travel costs incurred over reimbursements. The mileage paid by the state, the so-called "state rate" (for private automobile reimbursement) is currently \$.57 per mile (<https://admin.ks.gov/resources/informational-circulars>), but is not binding on local units of government (See K.S.A. 75-3203).

L-14. Publication Expenses. K.S.A. 28-137 requires a newspaper to charge the "lowest regular classified advertisement rate charged by the newspaper to its commercial customers" for legal advertisements. The maximum annual increase for classified rates is 15%. Rates are to be filed with the county clerk by July 1st of each year. Public notices required by law may be supplemented by radio and television announcements.

L-15. Annexation. Under K.S.A. 79-1807, only property annexed between January 1st and April 1st is assessed as a part of the city for tax purposes as of the previous year. Under K.S.A. 12-503a, when a city

annexes property within a township or improvement district, the township or district must continue to furnish services in the area during the remainder of the year or surrender to the city the taxes collected on the property which has been annexed.

NOTE: K.S.A. 12-2016 *requires the city clerk to notify all utility companies of newly-annexed territory concerning franchise fees*. Essentially, municipalities will not start receiving franchise fees until 30 days after all the proper notifications have been completed.

L-16. Intergovernmental Cooperation. In preparing budgets, city officials should consider opportunities for cooperating with other governments, particularly the county. The general cooperation powers statute in K.S.A. 12-2901 *et seq.* allows for broad accommodation between local units of government. In addition, K.S.A. 12-3901 *et seq.*, grants broad powers of local government reorganization and generally authorizes city-county or other interlocal consolidation of funds. Further, K.S.A. 12-2908 contains provisions for interlocal, city-to-city, and city-to-county contracts, with special provisions as to city-county law enforcement contracts under K.S.A. 12-2909. Please call the League for more information.

Mutual Aid Law

The **Kansas Intrastate Emergency Mutual Aid Act** was passed into law in 2006 in K.S.A. 48-948 *et seq.* The law essentially established a state-wide mutual aid system.

L-17. Highways; Public Works Services. K.S.A. 68-169, the state-county-city-township highway cooperation statute, authorizes written agreements between cities and counties for constructing, improving, and maintaining roads, streets, or connecting links inside or outside the boundary or jurisdiction of such city or county. For example, county road and bridge fund moneys may be used to improve city streets. K.S.A. 19-4501 *et seq.* grants county public works department's broad powers to provide public services to cities and other units (See K.S.A. 12-2908 related to county-city contracts for services).

L-18. County Connecting Links. K.S.A. 68-506f authorizes cities of fewer than 5,000 population and counties to enter into maintenance agreements for streets that form connecting links with county highways that are a part of (a) the secondary road system or (b) the system of minor collector roads and highways. In the absence of such agreements, it is the duty of the county to maintain all such connecting links within cities of populations less than 5,000.

L-19. Law Enforcement Contracts. Some cities have entered into city-county law enforcement service agreements. As noted in Section L-16 above, there are several intergovernmental cooperation statutes. K.S.A. 12-2909 contains special provisions for city-county law enforcement service contracts, including the enforcement of municipal ordinances by the county sheriff's department.

L-20. Law Enforcement Training. All full-time law enforcement officers, sheriffs and deputy sheriffs must be certified by the Kansas Commission on Peace Officers' Standards and Training. The training must take place within one year of appointment. The annual requirement of in-service training for all salaried, full-time officers is 40 hours (beginning in their second year). The Commissions web site is <http://www.kletc.org/index.php>.

L-21. Bond Payments from General Revenue. As a result of the general rule against inter-fund transfers, it is doubtful that a city may legally transfer moneys from the general fund to the bond and interest fund.

However, it does appear legally permissible to make bond payments out of the general fund. Further, budget transfers from the general fund to a capital improvements fund may be made, and bond payments then made from the improvements fund (See Section G-3).

L-22. Temporary Notes, In Lieu of Bonds. K.S.A. 10-123 provides that temporary notes may be used to finance an improvement for which bonds are authorized, with the principal and interest retired from current revenue, rather than bond proceeds. When an improvement can be financed in four years or less, this procedure can reduce the costs of borrowing normally involved in issuing bonds.

L-23. Discontinued Bond Funds. K.S.A. 10-117a authorizes local governments to transfer balances from the bond and interest fund to the general fund whenever all bond issues have been completely retired. The transfer is subject to the provisions of K.S.A. 79-2958, which requires that tax fund balances not used shall reduce property taxes otherwise levied.

L-24. Sales Tax Bonds. Revenue from city and/or countywide local sales taxes may be used to finance payments on, (1) "pure" sales tax bonds authorized under existing K.S.A. 12-195, (2) sales tax-general obligation bonds authorized by K.S.A. 12-195b, (3) self-supported municipal improvement district bonds authorized by K.S.A. 12-17,103, and (4) normal general obligation bonds, by paying some or all of the principal and interest from the general fund in which local sales tax receipts are deposited, rather than from a special tax levy. K.S.A. 12-195b authorizes the issuance of bonds pledging local sales tax revenues for payments of the bonds, with general obligation bond backing. Such "double-barrel" sales tax/general obligation bonds may be used for any public facilities or improvements for which the city or county is legally authorized to issue general obligation bonds.

L-25. STAR Bonds. STAR Bonds are a type of tax increment financing (TIF) that permits sales tax and revenue (STAR) bonds to be used to fund special bond projects of "regional or statewide importance". Specific statutory definitions and procedures (K.S.A. 12-1770, et seq.) set forth the requirements necessary to undertake a STAR bond project. The requirements include the preparation of a project plan, public hearing and the adoption of the plan. The project plan requires marketing and impact studies. The final approval for a project plan must come from the Secretary of Commerce.

Bond proceeds can be used only to finance redevelopment project costs (K.S.A. 12-1770a), which include property acquisition, site preparation, design and installation of infrastructure. Sales tax revenue, state and local, generated in the project area is pledged to principal and interest payments. Upon repayment, all sales tax revenue is then distributed as usual and as described in Section I.

L-26. Firefighters Relief Fund. This fund is generated by a 2% tax on fire and lightning insurance premiums paid in Kansas for the previous calendar year. The moneys in this fund are intended to aid the families of firefighters who are injured, disabled, or killed on the job.

L-27. Firefighters Relief Association Loans. Subsection (f) of K.S.A. 40-1707 authorizes firefighters relief associations to loan moneys to the local unit in which the association is located to be used by the unit "in the improvement of its fire department and equipment thereof," such as for the purchase of a fire truck, at an interest rate not to exceed 6% annually.

L-28. Lease-Purchasing. Under K.S.A. 10-1116b, a lease-purchase agreement that includes an option to buy, or an installment purchase agreement, must specifically state that the municipality is obligated only to make payments as may be lawfully made from funds budgeted and appropriated for that purpose during the current budget year.

Reminder: For most lease-purchase agreements, there is a reporting requirement on the State Budget Form. Be sure to check the instructions and the State Budget Form for the requirements necessary to comply with this provision of the budget law.

Under K.S.A. 10-1116c such lease-purchase agreements are subject to the following limitations: (1) if the term exceeds the current fiscal year, it must be approved by a majority of all members of the governing body; (2) if the agreement is for acquisition of land or buildings, and is for a term of three or more years with payments in any year in excess of 3% of the current year's budget (excluding debt service), a notice must be published for two consecutive weeks and the agreement is subject to a 5% protest petition for a referendum; and (3) if the agreement is for land or buildings and the term exceeds the current year, it must specify the cost of the item if it was purchased by cash, the annual average effective interest-cost, and the amount for services, maintenance, insurance, or other charges.

L-29. Budgeting for Liability and Property Insurance. Though property and casualty and general liability rates for cities and counties appeared to have stabilized some over the past year or so, municipalities are advised to continue to budget, at a minimum, 5% more each year than was paid in the previous year (given a good loss history in each locale). As always, the best source for forecasting rates is your broker or agent.

L-30. Special Liability Expense Fund. The Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*), authorizes municipalities to pay the cost of legal defense, claims, and "other direct and indirect costs resulting from the implementation of this act" from the general fund, other existing funds, or from a special liability expense fund. K.S.A. 75-6110 provides that a governing body that has created a special liability expense fund may levy a tax therefore, without limitation as to rate. In addition to a separate tax, moneys received by the municipality "from any source whatsoever which may be lawfully utilized for such purpose" may be placed in the fund.

L-31. Risk Management Reserve Fund. K.S.A. 12-2615 authorizes the city governing body to establish a risk management reserve fund. Moneys in this fund may be used to cover any risk that would otherwise be insurable. The act does not authorize a special tax. However, it provides that "[M]oneys may be paid into such risk management reserve fund or special reserve fund from any source which may be utilized for such purposes, including transfers from the general fund, from any special liability expense fund established in accordance with the provisions of K.S.A. 75-6110, and amendments thereto, or from any other fund or grant program account of the governmental unit in reasonable proportion to the estimated cost of self insuring the risk losses covered by such funds." Be sure to note the use of the word "transfers."

L-32. Ordinance Codification. K.S.A. 12-3016 provides for budgeting the cost of ordinance codification for up to three years. The League, with its Codification Program Consultant, American Legal Publishing, provides a contractual codification service.

L-33. Payments by Exempt Property. In addition to their home rule authority, K.S.A. 12-147 authorizes cities to enter into contracts with the owners of tax-exempt property for payment of service charges in lieu of taxes. K.S.A. 12-1742 covers payment in lieu of taxes on industrial revenue bond property.

L-34. Economic Development Exemptions. Property tax exemptions may be granted for certain economic development purposes under the Kansas constitutional amendment approved by the voters in 1986 (Art. 12, Sec. 13). Payments in lieu of taxes may be required. The League has available a publication entitled *Economic Development Tools for Kansas Municipalities*, for a nominal fee. The publication details among

other things, the processes that a city must follow in order to successfully exempt and/or abate property taxes. For further information contact the League at (785) 354-9565.

L-35. Recreation Commissions. Recreation commissions, under K.S.A. 12-1927, prepare their own budgets, hold a public hearing thereon, and then certify the budget and tax levy to the "parent" taxing unit, either the city governing body or the school district board. State law also requires recreation commissions with receipts over \$150,000 to file both an annual budget and audit with the "parent" taxing unit and the county clerk.

The recreation tax may not exceed the maximum levy rate set by the city or school district by current resolution. The procedure for increasing the authorized levy rate requires a request by the recreation commission and the approval of the governing body, is subject to a petition for a referendum, and may not be increased more than one mill each year. The maximum rate is four mills, with provisions for an additional one mill for providing liability insurance and the creation of an employee benefits contribution fund.

PART M—2015 SESSION LEGISLATION AFFECTING MUNICIPAL BUDGETS AND FINANCE

Tax Lid. HB 2088 significantly amended the tax lid law passed in 2015. Most importantly, the law will now take effect Jan. 1, 2017. This change means the **tax lid will affect 2018 budgets**, but will not affect 2017 budgets. Several exemptions continue to exist removing certain budget elements from the lid. For instance, costs of complying with state or federal mandates (enacted after July 1, 2015) are exempt. Increases in costs for "law enforcement, fire protection or emergency medical services" beyond the rate of inflation will be exempt, as are bond and interest payments. Lease payments and payments to public building commissions may be excluded, but only for those obligation incurred prior to July 1, 2016. After a city removes property tax revenues via the exemptions, the multiplier for determining the amount a city's property tax revenue may increase will be a five-year rolling average of the Consumer Price Index. At no time shall the allowable growth rate be less than 0%.

Tax Transparency: The tax lid will not affect the 2017 budget, however, some of the changes made to K.S.A. 79-2925b may raise a question concerning the need to publish a notice of vote. In 2015, the statute was amended to allow local units of government to adjust the amount of property taxes levied over the previous year by the CPI for all urban consumers as published by the United States Department of Labor for the preceding calendar year. If the governing body of the municipality voted to approve a budget which included an increase over the computed limit, a majority of the governing body had to approve a resolution and provide "notice" of that vote to be published in the official **county** newspaper of the county where the municipality was located.

As of July 1, 2016, K.S.A. 79-2925b will not apply to cities or counties. The Department of Administration in their *Budget Workbook* still indicates a requirement to pass a resolution and publish notice if the new budget exceeds the computed limit. There is no prohibition against passing such a resolution and publishing the notice of vote. If a city passes a budget that exceeds the computed limit and wishes to pass a resolution and publish a notice, samples of each can be found in the 2015/2016 Budget tips on pages 23 and 24, <http://www.lkm.org/resources/budgettips/2015BudgetTips.pdf>.

Municipal Audits. SB 247 increases thresholds that trigger certain requirements on audits and financial reporting from \$275,000 to \$500,000. Annual audits are required when a municipality has either aggregate gross receipts in excess of \$500,000 or outstanding general obligation or revenue bonds in excess of \$500,000. SB 247 also adds a requirement that any municipality with either gross receipts in excess of \$275,000 and less than \$500,000 or outstanding general obligation or revenue bonds in excess of \$275,000 but less than \$500,000, have its accounts examined by a licensed certified public accountant using procedures at least once each year and by using enhanced agreed-upon procedures at least once every three years.

STAR Bond Modifications. HB 2632 redefined “eligible area” to include buildings that are 65 years old or older and contiguous lots which are vacant or condemned. The bill allows the Secretary of Commerce to pledge a portion of state sales and use tax revenues, rather than “all” to a STAR Bond district.

Fees for Star Bonds. Senate Sub. for HB 2509 grants the Secretary of Commerce discretionary authority to assess and collect fees for the administration of various economic development programs.

FLSA Update: Final Rules Issued on Overtime Pay and Exempt/Non-exempt Employees

The U.S. Department of Labor issued the long promised rules regarding payment of overtime and exempt/non-exempt employees on May 18, 2016. The DOL bulletin announcing the rules and Fact Sheet are available here <https://www.dol.gov/whd/overtime/final2016/> and <https://www.dol.gov/whd/overtime/final2016/overtime-factsheet.htm>.

Recommendations:

- Analyze current positions that are now being treated as exempt. Are they “fringe” positions, i.e. is there any question as to whether the position is truly exempt or, if exempt, is the current salary being paid close to the new threshold and a small increase in salary will allow the employee to remain exempt.
- There may be a need to review and update job descriptions to reflect the actual work being done and review the duties which make the position “exempt”.
- Give consideration to the hours worked by the current exempt employee. The number of potential overtime hours to be compensated may not nearly add up to the cost to the city to upgrade the pay base to meet the new salary schedule.
- Identify and quantify the amount of off duty work by salaried employees and if the position is to be reclassified as nonexempt, consideration should be given to how those duties would be covered or avoided.
- Evaluate your current “work period” for firefighters and law enforcement personnel. Adjusting the work period may have a positive impact upon overtime payments.
- Consider moving to a comp time system, rather than overtime pay, if you do not already have such a policy.

PART N – INTERNET SITES

Economic and Statistical Data

Kansas City Federal Reserve: <http://www.kansascityfed.org/>

St. Louis Federal Reserve: <http://www.stlouisfed.org/>

Both of these sites are good resources of economic data for Kansas and the region.

IRS Newsletter <http://www.irs.gov/govts>

Quarterly publication featuring information on federal tax laws, Social Security and Medicare coverage, contact information, upcoming conferences, and articles from such agencies that work with the IRS as the Social Security Administration.

National Debt <http://www.treasurydirect.gov/govt/govt.htm>

National Population <http://www.census.gov/cgi-bin/popclock>

Consumer Price Indices <http://www.bls.gov/cpi/>

This site is hosted by the Bureau of Labor Statistics (see below) but will take the user directly to all the CPI information they might need. All files can be downloaded or printed directly.

Bureau of Labor Statistics <http://www.bls.gov>

BLS information specifically targeted for the Kansas City Region, which includes all of Kansas.

Census Bureau <http://www.census.gov/>

The federal census bureau is the pre-eminent collector and provider of timely, relevant, and quality data about the people and economy of the United States.

Bureau of Economic Analysis <http://www.bea.gov/>

The Bureau of Economic Analysis is the nation's accountant, integrating, and interpreting a tremendous volume of data to draw a complete and consistent picture of the U.S. economy.

Federal Reserve Beige Book <http://www.federalreserve.gov/monetarypolicy/beigebook/>

Commonly known as the Beige Book, this report is published eight times per year. Each Federal Reserve Bank gathers information on current economic conditions in its District through reports from banks, interviews with key business contacts, economists, market experts, and other sources. The Beige Book summarizes this information by District and sector.

National Local Government Data

National League of Cities <http://www.nlc.org/>

NLC is the country's largest and most representative organization serving local governments. More than 1,400 communities of all sizes belong to this organization plus 49 state leagues.

Kansas Local Government Data

Department of Labor (KDOL) <http://www.dol.ks.gov/>

This site contains data resources and contacts specifically related to human resource issues (including the Workers Compensation Division).

Department of Revenue <http://www.ksrevenue.org/>

This site contains a variety of city/county data related to sales tax collections and other information.

Kansas State Treasurer <http://www.kansasstatetreasurer.com>

Department of Transportation (KDOT) <http://www.ksdot.org/>

This site contains considerable information on statewide projects including bidding information and dates.

Department of Administration Municipal Services <http://www.da.ks.gov/ar/muniserv/default.htm>

This site provides all the budget forms, plus the manual "Budgeting for Kansas Municipalities"; along with other information from time-to-time needed by municipalities (mileage rates, utility deposit interest rates, etc.)

State of Kansas sites <http://www.kansas.gov>

This site is the official site for all state agencies and all state data.

The Policy Research Institute <http://www.ipsr.ku.edu/>

The Policy Research Institute (PRI) was created in 1985 by the University of Kansas to provide an active link between the university, state and local governments, the business community, and the citizens of Kansas.

Center for Engagement and Community Development <http://www.k-state.edu/cecd>

A "sister" organization to the PRI at the University of Kansas, CECD is located on the campus of Kansas State University.

Kansas PRIMA <http://www.kansasprima.org>

Kansas Chapter of Public Risk Management Association

KSGFOA <http://www.ksgfoa.com/>

Kansas Government Finance Officers Association

GFOA <http://www.gfoa.org/>

Government Finance Officers Association

FASB <http://www.fasb.org/>

Financial Accounting Standards Board

GASB <http://www.gasb.org/>

Governmental Accounting Standards Board

Other Interesting Sites

The National Geographic Map Machine <http://plasma.nationalgeographic.com/mapmachine/>

A wonderful site that offers topographical maps across the globe. A wide array of demographic data is also available.

The 10,000 Year Calendar <http://www.calendarhome.com/tyc/>

Need a date from the past? The future? This site will give you that and more.

Virtual Calculators <http://www.iframe.com/>

There are calculators for finance, business, and science. There are ones for cooking, hobbies, and health. Some solve problems, some satisfy curiosity, and some just for fun. All put the answer easily within your reach.

Employment Laws Assistance <http://www.dol.gov/elaws>

Interactive tools that provide information about Federal employment laws.

IEDC <http://www.iedconline.org/>

International Economic Development Council – Provides training, affiliation possibilities, etc.

National Development Council <http://www.nationaldevelopmentcouncil.org/>

“The National Development Council (NDC) is one of the nation's oldest and most respected 501(c)(3) nonprofit organizations dedicated to affordable housing and economic development finance. For nearly thirty years, NDC has provided technical assistance, training, and development services to local and state governments and nonprofit organizations...”

Association of Public Treasurers <http://www.aptusc.org/>

“Founded in 1965, APTUS&C represents 2,000 public treasury and finance officials in local, county and state/provincial governments throughout North America.”

Zip Code Lookup <http://www.zipinfo.com/search/zipcode.htm>

Find zip codes by city, state, or the zip code itself. Easy and accurate.