

Approved January 23, 1986
Date

MINUTES OF THE Senate COMMITTEE ON Local Government

The meeting was called to order by Senator Don Montgomery at
Chairperson

9:00 a.m./p.m. on January 21, 1986 in room 313-S of the Capitol.

All members were present except: Senators: Gaines and Mulich who were excused

Committee staff present: Mike Heim, Theresa Kiernan, Lila McClaflyn

Conferees appearing before the committee: John Hamilton, Attorney for Citizens Against Unilateral Annexation, Topeka
Kim Dewey, Sedgwick County Board of County Commissioners
Lee Kinney, Resident of Shawnee County
R. R. Anderson, Topeka
Bernard St. Louis, Co-Chairman, Citizens Against Unilateral
Marvin D. Perkins, Tecumseh Township, Topeka
Linda Lubensky, Western Hills Neighborhood Assn. Lawrence, KS.
Rep. Elizabeth Eaker, Sedgwick County
Rep. Nancy Brown, Johnson County

The Committee was called to order at 9:00 a.m., by the Chairman, Senator Don Montgomery. The Chairman announced there was a long list of conferees, he would appreciate it if they would make their remarks brief and concerning S.B. 427.

John Hamilton, stated S.E. 427 is a step in the right direction, it gives the people in areas to be annexed some representation. He suggested three amendments to the bill. His written testimony is apart of these minutes (Attachment I).

A member of the Committee asked him if he preferred the Boundary Commission as the determining power for hearings in annexations. He replied, he preferred the County Commissioners be the determining power.

Kim Dewey testified he strongly concurs with some of the conclusions of the special committee on Local Government regarding current annexation laws. Specifically, with giving the people in the areas to be annexed more of a voice, also, an effective avenue for annexation questions to be decided by a neutral body, and an effective manner of appealing unilateral decisions on the basis of certain standards and criteria. Provisions for the exclusion of property from the city if the city has failed to provide services as promised. Better notice provisions to special districts and other units of government.

He further stated, they take issue with some of the recommendations. Specifically, they oppose the Boundary Commission recommendation. They feel that such a representative body already exists in the form of the Board of County Commissioners, this is the logical body to assume the responsibility for arbitrating annexation (Attachment II).

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Local Government,
room 313-S, Statehouse, at 9:00 a.m./~~pm~~ on January 21, 1986.

Mr. Dewey was asked do you think most of the changes in H.B. 2117 that were incorporated in S.B. 427 were good? He replied, yes with a few changes. He was then asked do you think the rural areas would get a fair shake with the "boundary commission". Mr. Dewey replied, he was not arguing for or against the Boundary Commission, but he thought it was just adding another layer of government decision making, which he felt could be handled by the County Commissioners.

Lee Kinney urged the Committee to incorporate a timetable for improvement districts and allow the people to be annexed to have a voice in whether or not they are annexed. Her written testimony is (Attachment III).

R. R. Anderson stated he supports S.B. 427, perhaps it is time that government provide impact statements effecting tax increases in land grabs promoted by annexation. This bill will provided for some protection for landowners in effected areas and give them some opportunity to learn what the impact of annexation will have on their quality of life. He further stated he favored the County Commissioners as the board of review.

Bernard St. Louis stated his group was not against annexation per se; but they are for having a voice in choosing whether or not they are annexed. They feel they have no representation under the present unilateral annexation system. He stated he also preferred the County Commissioners review. (Attachment IV). In answered to a question, he stated he preferred H.B. 2117 over S.B. 417.

Marvin Perkins recommended that there be more coordination by all units of government. Also, that the fifth person on the Boundary Commission be a member of the township when there is active township government. In reply to a question, he stated if two townships are involved the representative should be from the one with the most area involved. (Attachment V). He responded to questions concerning streets and roads in his township and how they were funded and how annexation would effect this.

Linda Lubensky lives in an area that was annexed by the City of Lawrence. She encourages any effort on the part of the Committee to further insure the protection of individual property owners, such as in her area, not only from unfair and precipitious annexation but from the possible unjust ramifications of the action itself. (Attachment VI). In reply to a question, she stated her area was annexed in November of 1985, she was aware of the retroactive bill that has been introduced.

Senator Winter asked her if a bill was introduced to (1) guarantee the continuation of existing services and (2) provide a binding quasi contractual committment regarding future development and future assessments, so that areas are not utilized to assist undeveloped areas, would this take care of her concerns? She replied, Yes.

Rep. Baker stated cities need to concentrate on planned internal development designed to enhance the quality of life. That would attract and retain residents, thereby diminishing the need to "grab" those unsuspecting souls who have chosen to live outside the corporate limits of the city. The logical body to provide the needed objective representation is the Board of County Commissioners. (Attachment VII).

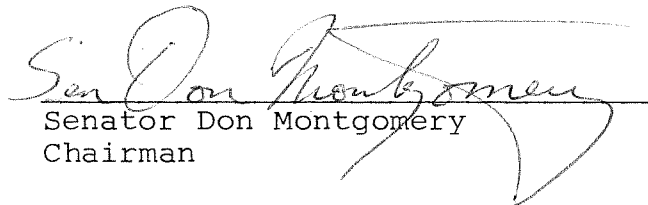
Rep. Nancy Brown stated she served on the Interim Committee and supported the bills but would like the Committee to consider some changes.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Local Government,
room 313-S, Statehouse, at 9:00 a.m./^{XX}p.m. on January 21, 1986.

One change she recommended was to delete the Boundary Commission and include the Board of County Commissioners. The second amendment would be the insertion of language similar to existing law "Manifest Injury". (Attachment VIII) is her written testimony and the proposed amendments.

The conferees who were not heard today were invited to return tomorrow. The meeting adjourned until 9:00 a.m., Wednesday, January 22, 1986.


Senator Don Montgomery
Chairman

Date: January 21, 1986

GUEST REGISTER

SENATE

LOCAL GOVERNMENT

NAME	ORGANIZATION	ADDRESS
Dennis Schwant	Ks Rural Water Assn	Tecumseh, Ks
Bill Anderson	Water Dist #1 Jo Co	Mission Ks
Ray D. Shankel	K. C. P. & L.	Chanover
Laurie Turner	intern	Lawrence
Al Meinent	C. A. L. A ^{Uni}	Topeka
Lori J. Vrbancac	Citizens Against Unilateral Annexation	Topeka, Ks 66614
Dyanne M. Radtke	Citizens Against Unilateral Annexation	Topeka, Ks 66614
Marcia L. St Louis	Citizens Against Unilateral Annex.	Topeka, Ks 66610
Bernard E. St Louis	Citizens Against Unilateral Annex.	Topeka, Ks 66610
Phyllis M. Setchell	Citizens Against Unilateral Annex.	Topeka, Ks 66605
Wilma Everest	Citizens against Unilateral annex.	Topeka, Kans. 66605
Dorothy Mitchell	Citizen Against Unilateral Annex	Topeka Kans. 66611
Timothy V. Eyer	" " "	" " "
J. H. Hays	" " "	Topeka, Ks.
H. K. Hudson	" " "	Topeka, Kansas
Ken Morrett	Const. Services Office	Topeka Ks
D. McCune		3540 ROY ROAD
Kimberly Kingman	Shawnee County Comm.	Topeka
E. T. SOPER	MISSION TWP	4342 SW URISH RD
TOM GARCIA	MISSION TWP.	3101 SW URISH RD.
Bob Reese	Tecumseh Twp	4120 SE. 2nd. Rd.
Jerry Coover	KC = E	Topeka

TESTIMONY IN FAVOR OF SENATE BILL 427
SPECIAL COMMITTEE ON LOCAL GOVERNMENT

By John R. Hamilton

On January 14, 1986, I witnessed a perfect example of legislation without representation. The Topeka City Council proposed an ordinance to adopt a plan for extension of services to 26 areas surrounding Topeka and to hold a public hearing on annexation. Approximately 500 or 600 people attended the hearing and for two hours person after person spoke in opposition of the proposed ordinance. Not one person spoke in favor of adopting the ordinance. During a discussion by the council members, Councilman Bibler stated that he favored the public hearing and his vote on the issue of annexation would be guided to a large extent upon the views and opinions of his constituency.

Needless to say, none of the people in the proposed areas to be annexed are constituents of any member of the City Council. Therein lies the problem. Fundamental to our system of government is that the lawmakers acting in a legislative capacity are representatives of the people affected by the legislation. One glaring exception to this fundamental principle is K.S.A. 12-520 which gives municipalities the power to unilaterally annex property belonging to people who do not have any representation in the process.

Senate Bill 427 is a step in the direction of some representation in the annexation process. I would like to make three suggestions regarding Senate Bill 427.

1. The amendment of the language dealing with property used for agricultural purposes is vague and will lead to litigation to interpret the meaning of "land devoted to agricultural use". It is fairly obvious that the intent of the amendment to define "land used for agricultural purposes" is to exclude the hobby farmer or the rural resident who happens to have a horse and grows grass on his property. However, the revised language in SB 427 might very well cause some litigation over the interpretation where a person owns 60 acres, lives on the property and boards horses for a fee.

2. SB 427 provides for a boundary commission made up of two members (2) of the Board of County Commissioners, two (2) members of the city government and an impartial fifth person. While this is a vast improvement over the unilateral annexation law, I would suggest that the power to determine whether annexation is in the best interest of all the people should be vested in the Board of County Commissioners. The Board of County Commissioners represents all citizens in the county and should best be able to determine what's in the best interest of the entire county. The Board of County Commissioners is vested with the power to determine whether a territory should be permitted to incorporate pursuant to K.S.A. 15-116, et seq. In the case of incorporation, the Board of County Commissioners must decide in favor of incorporation unanimously, if the territory is within five (5) miles of a city. We would suggest that the issue of incorporation or annexation, as determined by the Board of County Commissioners, should be by a simple majority and not require

unanimity. In any event, it should be the same voting standard for incorporation and annexation. While we favor the annexation authority to be vested in the Board of County Commissioners, if you retain the concept of a boundary commission as set forth in SB 427, we would suggest that the make-up of the commission be changed to include two members of the Board of County Commissioners, one member of the city governing body, the Township Trustee in the affected township and an impartial fifth member to be selected by the four other members. The Township Trustee of a township where property is being annexed has a vital interest in whether annexation is proper or not. In the case of the Sherwood area being proposed for annexation by the City of Topeka, the township will lose about 45% of the revenue while retaining the vast majority of the roads in the township to be maintained. The effect upon the township is of vital interest to other residents in the township who are not proposed for annexation. This impact is one of the sixteen findings of fact which the Boundary Commission would be required to consider, under SB 427.

3. Under Section 4(e), the Boundary Line Commission is required to take into consideration 16 separate considerations as findings of fact. Finding Number [12] is

"Existing Petition for Incorporation
of the area as a new city or special
district government."

We would suggest that this Finding is not necessary under the Doctrine of Prior Jurisdiction. As the law now stands, if a city

has petitioned for incorporation, annexation proceedings cannot commence to create a foot-race to see which entity can complete the process first. The Doctrine of Prior Jurisdiction has been developed by case law and is a valid and practical doctrine. Finding of Fact [12] might be construed to repeal the Doctrine of Prior Jurisdiction by this legislation. One suggestion as to an appropriate finding of fact which would not undermine the Doctrine of Prior Jurisdiction would be "willingness of the residents in the area to incorporate as a new city or special district government".

We are not against economic development or the orderly growth by municipalities. We support both of those concepts and feel that they can be accomplished by all citizens affected by annexation, those in the city and those to be annexed, by vesting the power of annexation in a quasi-judicial body that is representative of all the people. We do feel that the Board of County Commissioners can better address the issue of annexation.

Representative Ginger Barr introduced and moved HB 2117 through the House of Representatives. HB 2117, as amended, provides for a determination by the Board of County Commissioners on the issue of annexation and we feel is a good vehicle to amend the existing law. Representative Bahr deserves a lot of credit for bringing the inequities of our current unilateral annexation statutes to the forefront for review and hopefully change. Members of this committee also deserve credit.

It is fairly widely accepted that we are going to have some

change in the repressive unilateral annexation laws. The City of Topeka recognized in August of 1985 that some changes in the unilateral annexation law might be made in this legislative session. Planning Director Jim Schlegel explained that it would require forty-five (45) days to prepare a study and sixty (60) days for notice of a formal public hearing on annexation. Councilman Gene Miles commented, as reported in the Topeka Capital-Journal on August 7, 1985,

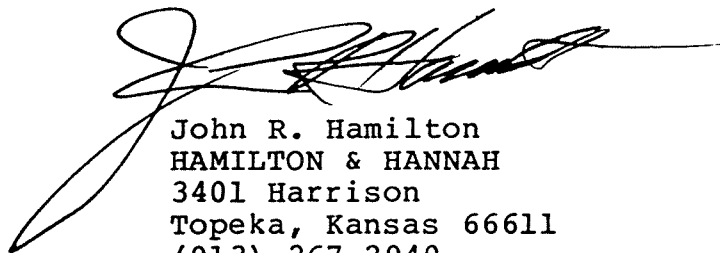
"Then we could make it prior to the end of the year, prior to the legislative meeting, before they take the power away from us."

A copy of the map of the twenty-six (26) proposed annexations by the City of Topeka is attached hereto. This plan of annexation was unveiled by the Topeka-Shawnee County Planning Commission staff on January 7, 1986, in preliminary form, and was adopted by ordinance one week later. The City of Topeka is obviously in a foot-race to try to outrun legislative actions which would, as Mr. Miles indicated, "take the power away from us". In order to prevent ill advised unilateral annexation designed to outrun the Legislature, we would suggest that the provision of SB 427 be applicable to any annexation proceedings commenced after August 15, 1985.

We respectfully request that you take favorable action on Senate Bill 427 with the modifications that we have suggested and consider all other reasonable and constructive suggestions to

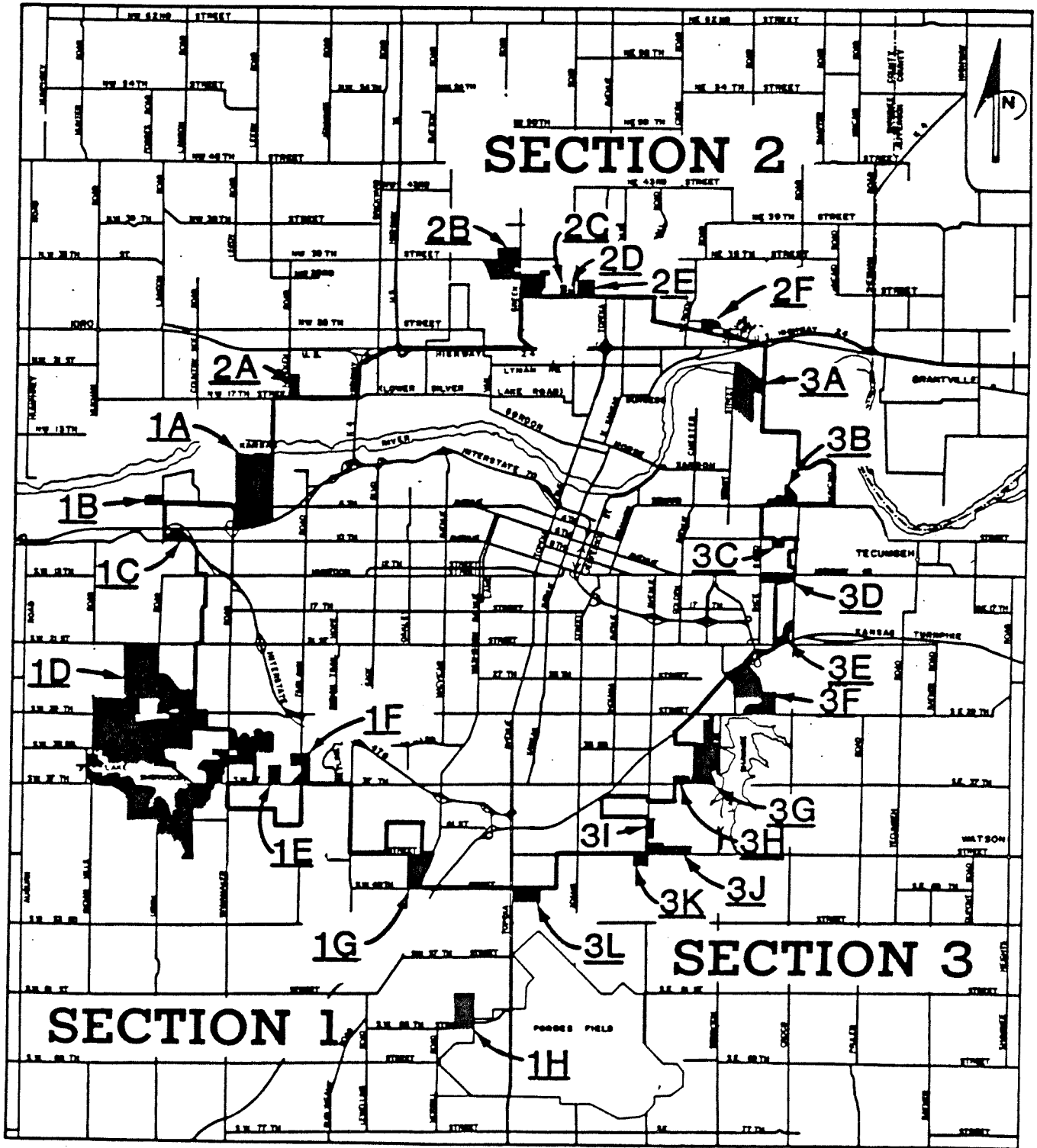
make the legislation have some relationship to legislation with
representation.

Respectfully submitted,

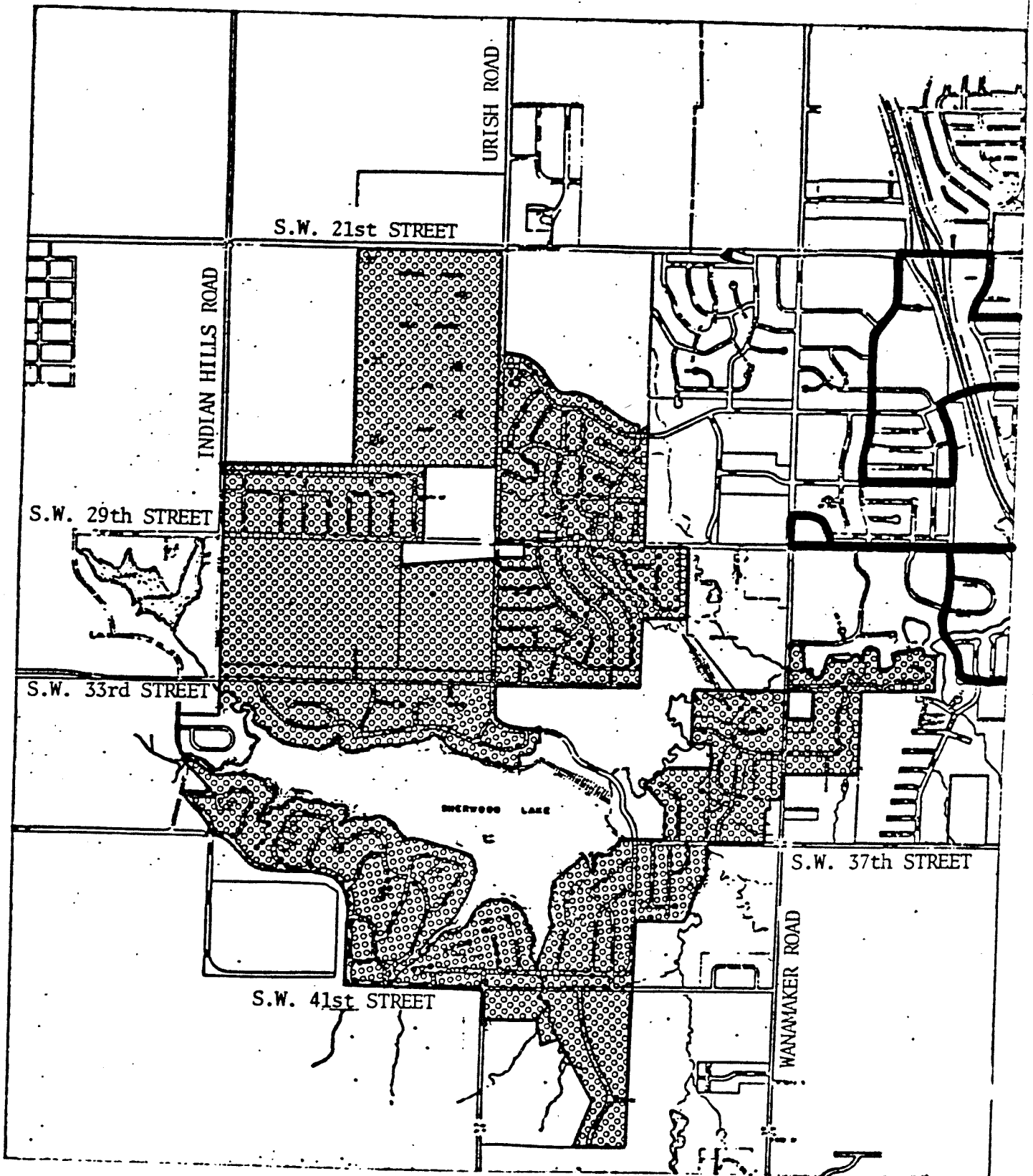
A handwritten signature in black ink, appearing to read "John R. Hamilton", with a long horizontal flourish extending to the right.

John R. Hamilton
HAMILTON & HANNAH
3401 Harrison
Topeka, Kansas 66611
(913) 267-2940
Attorney for Citizens
Against Unilateral
Annexation

The Area which is the subject of this Plan and Report is Identified on the following map.



TRANSIT ROUTES



North

ROUTE 

STUDY AREA 

STUDY SECTION 1

STUDY AREA D



SEDGWICK COUNTY, KANSAS

BOARD OF COUNTY COMMISSIONERS

DONALD E. GRAGG
CHAIRMAN
FIRST DISTRICT

BUD HENTZEN
CHAIRMAN PRO-TEM
THIRD DISTRICT

TOM SCOTT
COMMISSIONER
SECOND DISTRICT

COUNTY COURTHOUSE • SUITE 320 • WICHITA, KANSAS 67203-3759 • TELEPHONE (316) 268-7411

Testimony of Kim C. Dewey
Sedgwick County
Senate Local Government Committee
Interim Committee Reports-Annexation Laws
January 21, 1986

Sedgwick County strongly concurs with the conclusion of the Special Committee on Local Government regarding current annexation laws. (Specifically, they are:

1. City annexation laws should be amended to provide persons residing in areas to be annexed:
 - a. More of a voice in and access to the process
 - b. An effective avenue for annexation questions to be decided by a neutral body.
 - c. An effective manner of appealing unilateral decisions on the basis of certain standards and criteria.
2. Provisions for the exclusion of property from the city if the city has failed to provide services as promised.
3. Better notice provisions to special districts and other units of government

While we strongly agree with these conclusions, we must respectfully take issue with some of the recommendations of the Committee on how to achieve the above stated objectives. Specifically, we must oppose the boundary commission recommendation. Although such an entity would certainly provide a representative body which could consider the objections of residents proposed for annexation, we feel that such a representative body already exists in the form of the board of county commissioners in each county. The board of county commissioners is the logical body to assume the responsibility for arbitrating annexation disputes for several reasons:

1. Cities are created by acts of the board of county commissioners. It is a logical and consistent extension of this function to allow the board authority to arbitrate disputes arising from the growth of cities which they created.
2. The board of county commissioners is the only locally elected body which is representative of all citizens of the county regardless of their place of residence.
3. The board of county commissioners is in a position to exercise the greatest degree of objectivity since they have no vested interest in either encouraging or discouraging annexation. Annexation does not add to or erode the county's tax base.

We feel that it unnecessary to create another layer of government decision making when a representative, elected body such as the board of county commissioners already exists. We urge this committee to either act favorably upon HB 2117 or amend its provisions into the Interim Local Government Committee bills.

Senate hearing; Committee on Local Government
9:00 AM

Testimony by: Lee Kinney
3900 Aylesbury Court - Topeka. Tele: 478-4969

I reside in 1D - an area called Sherwood. This is one of the areas scheduled for annexation. This is also an improvement district.

In reference to Senate Bill Number 427, I would like to make the following statements.

On page 8 of the bill, several protections for proposed annexed areas are stated. Line number 288 is very necessary. - guaranteeing 100% of services in the area. This is something we do not currently have. We are extremely concerned about services in our Mission Township as the entire township has enjoyed superb services - especially snow removal. The terrain in this area is hilly and very difficult to get around on in bad weather. Since our schools in the area have school bus service the township has done an excellent job clearing snowy and icy roads; thus cutting way down on snow days. I lived in the city for 16 years and know that the only way our street was ever cleared was by sunshine! ***

I would also urge you to consider incorporating some additional things in the bill: For instance, a specific time that services must be provided; very specific treatment so far as IMPROVEMENT districts are concerned regarding annexation. Can a city just move in and take over areas that/who have paid for certain improvements completely out of their own funds? What happens to townships like Mission when their major source of tax revenue is taken away by the City? Probably most important is the fact that the people who are being annexed really do not have a voice in whether or not they even want to be annexed?

***Line number 302 should also be noted. This is important as some previously annexed areas had their taxes doubled and improper or no services provided. In one instance, the City of Topeka annexed a large area south of Topeka called Pauline and Montara. They de-annexed the area later - and were unable to provide services.

(Attachment III) 5.46

Lee Kinney

1/21/86

January 21, 1986

Testimony of Mr. Bernard St. Louis, Co-Chairman, Citizens Against
Unilateral Annexation.

Thank you for this opportunity to express our point of view on annexation. My name is Bernard St. Louis and I am Co-Chairman of Citizens Against Unilateral Annexation. Our organization is bipartisan, consisting of an advisory board, many interested, active volunteers and hundreds of residents of rural Shawnee County, opposed to unilateral annexation.

Mr. Clyde Foust, also Co-Chairman of our organization, and I have been involved in taking a stand against the currently proposed annexations being considered by the City of Topeka. Topeka is attempting to annex 26 separate tracts of land to the north, southeast and southwest of Topeka.

There has been considerable interest in our organization from residents that live in the proposed areas to be annexed. Several meetings have been held in the past two months at various locations in the county. The first meeting, which was held in the Southeast area, attracted approximately 150 residents. Two meetings were held in the Southwest area attracting a total of approximately 600 persons, and one meeting in the North area attracted between 600 - 700 residents. In a couple of instances, there simply was not enough meeting space to accommodate all persons that wanted to attend. The purpose of these meetings was to educate persons residing in the areas considered for annexation of the impact annexation would have on them and to provide them with a means to do something about the situation for themselves.

(Attachment IV) S. H. G.

1/21/86

Citizens Against Unilateral Annexation started as a group of concerned citizens that disagree with the current laws pertaining to annexation, and in particular, the fact that residents in areas affected by annexation have no representation or meaningful voice in the annexation process. By no meaningful voice I mean that although we have an opportunity to express our opposition to annexation with the Topeka City Council, they are not required to act on our behalf, as we did not elect them. The Topeka City Council continues to tell us that they are acting in the best interest of Topeka, yet we contend that these annexations are not in the best interest of the City or Shawnee County as a whole.

We are not against annexation per se; we are against, however, not having a voice in choosing whether or not we are annexed. We have no representation under unilateral annexation, which is defined as **annexation without the consent of the landowner.**

One of the freedoms we enjoy as Americans is the independent opportunity for each of us to participate in the type of municipal government we so desire. The decision to reside within the boundaries of a city and participate as a citizen of that city is as fundamentally individual as choosing to reside outside city boundaries and participate in that form of government. This concept, freedom of choice, is basic to the American way of life. It is ironic that residents of areas outside of city boundaries are not allowed to exercise this freedom when annexation of their homes and imposition of an undesirable form of government are the issues.

Why should cities across the state of Kansas have the power to

unilaterally annex property at will? Why are cities across the state running into considerable opposition when annexation is the issue? Why don't rural residents in these areas have the right to representation prior to annexation or to determine and live under the form of government they so choose?

County residents have been accused of not paying their fair share of taxes. Examples can be cited where others have been accused of not paying their fair share of taxes in general. One only needs to look at the controversies surrounding the federal tax reform efforts, farm subsidies, etc.

We feel we do pay our fair share. We are assessed for the maintenance of our roads, and other services, through the township mill levies, which city residents do not pay. We, too, pay the county mill levy, which is used for running the county government, courthouse, maintaining county roads not maintained by the townships, and other county provided services.

We pay to support Washburn University and the Topeka Public Library through assessments to the townships. We pay to support the maintenance of the streets in the city through the gas tax revenues the city receives from our gasoline purchases. Also, please do not forget the all important revenues received through the sales taxes we pay on goods bought from merchants in the City of Topeka which help pay for many of the services provided to city residents. We help support the economy of Topeka, as do residents from surrounding communities and counties, that also use many of Topeka's services. It would be absurd to think they should be annexed as well.

If we aren't paying our share, wouldn't it seem more reasonable to assess non-city residents higher user fees rather than to annex our property into the city?

We have provided many services for ourselves, paid for them ourselves, and now the city wants to take them away from us. They want us to accept a lower level of services from those we are currently enjoying and pay approximately 30% more taxes (based on 1985 Mission Township tax levy) in the process. Why should they have the power to do this without us having an opportunity to voice our opinion to the contrary through the democratic process? Several members of the Topeka City Council have told me that if they were in our shoes, they would be doing the same thing we are, yet because they reside on the other side of the City Limit line, it's perfectly fine to aggressively pursue annexation. The city officials want us to accept a lesser degree and quality of services. If you were in our position, we think you would agree with us - IT'S UNFAIR!

Annexation will not lower property taxes. The recent study conducted by the Topeka-Shawnee County Metropolitan Planning Commission, regarding annexation of 26 tracts of land in Shawnee County, cites, "The initial financial requirements to extend facilities and services will substantially exceed the level of revenues to be received from the subject area . . .". Annual expenditures for services will be approximately 4.16 times more than annual revenues are expected (\$2,423,990 annual expenditures vs. \$582,282 annual revenues). This figure does not include the estimated \$1,520,000 in capital improvements that will be required to provided these services. If you include capital improvements with annual expenditures, the cost to provide services increases to 6.77 times.

We feel the Topeka-Shawnee County Metropolitan Planning Commission has not studied the effects of this annexation completely. It is estimated that if all of the proposed tracts within Shawnee County are annexed to the city, property taxes for all residents of Topeka will increase approximately 6 to 8 mills to provide services to newly annexed areas. The Mayor of Topeka has stated that taxes for Fiscal Year 1987 may increase due to the annexations proposed. If taxes overall do not increase, the City has only two other options: 1) Don't provide services to the newly annexed areas until it is economically feasible to do so, or 2) Spread existing services thinner across the board to provide minimal services to newly annexed areas and further reduce coverage to the City as a whole. Elderly persons, retired persons, and persons on fixed incomes will be most effected by these options. The effects of annexation will certainly be felt by all, and these effects are not always positive. It should be remembered that the city is not required by law to implement any plan for extending services to newly annexed areas. There are no guarantees afforded to residents in these areas.

Township residents will also be effected. In Mission Township, the areas currently being proposed for annexation provides for approximately 47% of the annual operating revenues through the township mill levy. Services provided to persons outside the proposed area include fire protection, a 'First Responder' medical assistance program, road maintenance, and snow removal. If this tax base is taken from the township, many of these services would have to be discontinued, reduced, or taxes would have to be increased to provide the same level of services currently enjoyed. Persons in this group that will be most effected are farmers, elderly persons, retired persons, and others on fixed incomes.

We are confident you will agree with us that the city should be developing stronger, long term growth plans and to find alternative ways to finance them, rather than to expect to grow strictly through a philosophy of annexation and taxation.

We feel the Mayor's Office and the Topeka City Council should be as responsive and sympathetic to the needs of the people it is attempting to serve as it is to the people it currently serves. Frankly, the bottom line is that the annexation of the property the City is considering will not add to the efficiency of providing services to the residents in the annexed areas, nor will it improve on the efficiency or the level of services currently provided to the residents of the City of Topeka. At best, all residents will suffer. Is this responsive government?

Rep. Ginger Barr has been helpful in keeping us informed of developments regarding unilateral annexation. We support Rep. Barr in what she has been trying to achieve in the way of favorable legislation pertaining to this subject. We urge you to support legislation to do away with unilateral annexation. Your consideration of the existing laws pertaining to annexation is appreciated. Thank you for allowing me this opportunity to visit with you. I would be happy to answer any questions you may have at this time.



PERKINS AGENCY, REALTOR

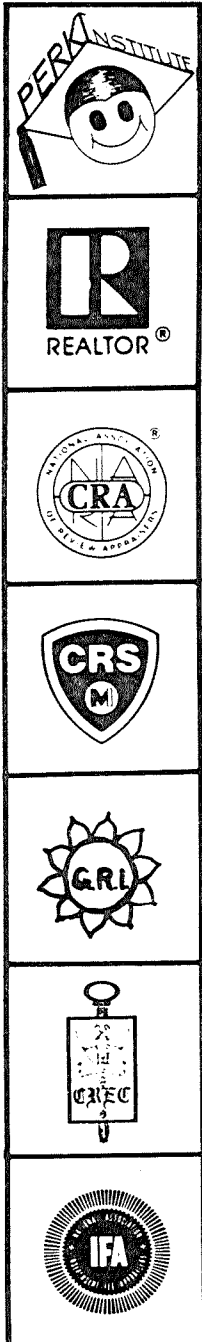
3300 SW 29th Street
Topeka, Kansas 66614
(913) 272-8401

January 21, 1986

TO: SENATE LOCAL GOVERNMENT COMMITTEE

I would like to state that I am in favor of SB 427 but with the following suggestions which I would like to make for your consideration:

1. No reference is made to confiring with the Township Board, Fire District, Special Assessment district, water or Utility companies as to how the annexation will affect the Budgets of each of these governing bodies and if the City is going to assume certain indebttness which is the responsibility of the Governing bodies. If these debts aren't considered, some of the governing bodies may become insolvent upon being annexed. Coordination by all units concerned could possibly avoid the problem and the budgets of each could be adjusted accordingly.
2. Page 6, Line 28
I feel that the fifth person should be a member of the township where townships are active as they are elected by that district and represent the persons in the district. They are also more familiar with the budgets and the ramification of what will happen if they are annexed. If the townships aren't active, then proceed with the outlined schedule in (3).
3. Annexed areas normally have School bus service which are outside of the city and upon annexation snow removal is normally forgotten in the area which means the school routes won't be cleared, making



RESIDENTIAL SALES
APPRAISALS
INVESTMENT PROPERTY
COMMERCIAL
EDUCATION SEMINARS
GENERAL INSURANCE
MULTIPLE LISTING EXCHANGE



MARVIN D. PERKINS

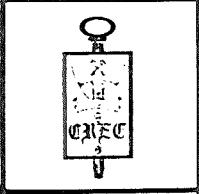
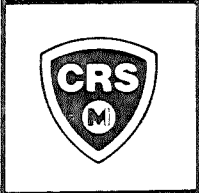
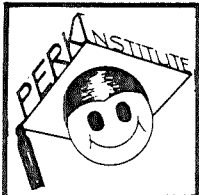
"WE MAKE HOUSE CALLS"

(Attachment v) S. 46
1/21/86



PERKINS AGENCY, REALTOR

3300 SW 29th Street
Topeka, Kansas 66614
(913) 272-8401



the students walk to certain pick up points designated by the School. Clearing the School Routes should be considered and addressed in annexation of an area as the Townships normally provide that service.

4. Items which the Boundary Commission is to consider on Pages 7-8 (e) (1)-(16) should be considered by the City prior to annexing the area and it would probably eliminate appointing a Boundary Commission.

Thank you for your patience and consideration.


Marvin D. Perkins
Topeka Township Trustee

RESIDENTIAL SALES
APPRAISALS
INVESTMENT PROPERTY
COMMERCIAL
EDUCATION SEMINARS
GENERAL INSURANCE
MULTIPLE LISTING EXCHANGE



MARVIN D. PERKINS

"WE MAKE HOUSE CALLS"

Statement: Senate Local Government Committee

Linda Lubensky, Western Hills Neighborhood Association, Lawrence

This Local Government Committee is beginning its deliberations on the need and advisability of creating an annexation process that would allow, not only for improved legal recourse for the individual, but also that would allow for arbitration and allow for protest. There is no doubt in my mind, as one whose property was recently annexed, that there is a need for all of these provisions. However, it must be pointed out that very little discussion has centered around the limitations of our statutes in regard to protecting individual property owners from the potentially punitive results of the actual annexation especially of a fully developed area.

The overwhelming opposition of the Western Hills residents to unilateral annexation by the City of Lawrence was never based on the issue of paying city taxes for amenities that we as a bordering community had available to us. Our concerns were based upon the devastating financial and personal impacts that predictably could occur to us, following annexation, in the form of burdensome specials. Our concerns were based upon the fact that once annexation occurred, many of our avenues for self-protection would be eliminated leaving us in a shockingly vulnerable situation. Our concerns were based on the fact that regardless of the assurances and promises of a current commission, in regards to protecting us from unreasonable assessments for unwanted services, no agreement or commitment can be made that is legally binding on future commissions. And so, we find ourselves in a state of limbo...not knowing at what time in the future we might find ourselves at the mercy of a less reasonable city government. We find ourselves only too aware of how our present situation might be manipulated to cause us to pay for sewers we don't use, water systems we don't need, and road improvements that are necessary only to a neighboring developer's plans.

The Western Hills area has gained nothing through its annexation. In fact in certain situations the city has provided services inferior to those previously provided by the township. Moreover, we find ourselves in an untenable position with regards to protecting our investment and our future.

We sincerely encourage any efforts on your part that would further insure the protection of individual property owners, such as ourselves, not only from unfair and precipitous annexations but from the possible, unjust ramifications of the action itself.

(Attachment VI) **S.46**
1/21/86 Linda Lubensky,

STATE OF KANSAS

ELIZABETH BAKER
REPRESENTATIVE - EIGHTY SECOND DISTRICT
SEDGWICK COUNTY
1025 REDWOOD RD
DERBY KANSAS 67037



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER ELECTIONS
EDUCATION
LOCAL GOVERNMENT

TO: Senate Local Government Committee
FROM: Representative Elizabeth Baker
DATE: January 21, 1986
RE: Annexation and its surrounding problems.

The problems surrounding annexation have consumed considerable time in our legislature. In my tenure as a Representative, not a year has passed without hearing constant reiterating complaints from constituents concerned about imposing, by force, the political will of city governments upon people and their property not located in their jurisdiction.

Your committee has before it a number of recommendations made by the Interim Committee on Local Government-1985. These recommendations attempt to resolve a myriad of problems that exist with annexation. Today, I would like to address only one of these problems: our current statute that focuses on unilateral annexations. K.S.A. 12-520 states the conditions which permit unilateral annexations and K.S.A. 12-520a contains the resolution of consideration, hearing date, notice to landowners, etc. All the plans for extension of services to the area proposed to be annexed are located in K.S.A. 12-520. but no where in our statutes do we give a voice to the people proposed to be annexed. The power of any governmental unit must be limited to its electorate and its existing boundaries. The exculpatory rationale offered by our municipalities is repetitive and redundant. "A city must grow or it will surely decline" said Mayor Bob Brown, Wichita. Growth by annexation is not real growth, but merely acquisition. At times it is acquisition by force. Many cities find themselves in a vicious cycle. Believing they need a broader tax base they annex lands, thereby stretching existing services that are already strained. Cities need to concentrate on planned, internal development designed to enhance the quality of life. That would attract and retain residents, thereby diminishing the need to "grab" those unsuspecting souls who had chosen to live outside the corporate limits of the city.

Although the interim committee has recommended a reasonable method to provide representation to those people in proposed annexations through the boundary commission, I still believe the logical body to provide the needed objective representation is the Board of County Commissioners in each county of the state. I urge your thoughtful consideration of this much needed change.

Thank you.

EB/bs

(Attachment VII) **S. L. G.**

1/21/86

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

NANCY BROWN

REPRESENTATIVE, 27TH DISTRICT

15429 OVERBROOK LANE

STANLEY, KANSAS 66224

COMMITTEE ASSIGNMENTS
MEMBER: COMMUNICATIONS, COMPUTERS AND
TECHNOLOGY
GOVERNMENTAL ORGANIZATION
TRANSPORTATION

Date: January 21, 1986

To: Senator Don Montgomery and members of the Local Government Committee

From: Nancy Brown

Re: Senate Bill 427

Mr. Chairman and members of the Committee, thank you for once again allowing me to speak before you on the subject of annexation, and most specifically on SB 427.

As most of you know, I did serve on the summer Special Committee on Local Government, involved in Proposal 45 dealing with annexation. Several bills were the result of the summer study which you have before you today.

I am here in support of these bills, but would like you to consider some changes which I have taken the liberty of drafting for your review.

While there are some minor technical corrections in the draft, the recommendations for change deal primarily with the following:

- 1) Deletion of the Boundary Commission and including in its place the Board of County Commissioners.
- 2) Insertion of language similar to existing law - "Manifest Injury"

The first recommendation, deletion of the Boundary Commission and substituting County Commissioners, seems to be the consensus of almost everyone I have talked with about annexation, including city and township officials alike. The boundary commission, which perhaps seemed like a good compromise and change during committee discussions, seems to have little support today, primarily because it adds another layer of government and includes a member which does not have to be an elected official.

The second recommendation merely adds the words "manifest injury". These words are currently in the statutes, however, without any clearly defined meaning. The recommendation to add these words to SB 426 with established criteria (see the proposed draft amendment) is being made at the request of some township officials who feel it is important to leave this language in since the words have been used in previous court proceedings. The definition of "manifest injury" as defined by the Supreme Court in the Monticello Township case is included under the appropriate section in the suggestion revisions. Other individuals will discuss the reasons behind this request in more detail in their testimony.

Thank you again for the opportunity to appear before you and I will be happy to answer any questions you may have.

(Attachment VIII) **S.46**

1/21/86

0104 (f)(g) Any resolution, adopted pursuant to this section, which
 0105 includes territory subsequently incorporated pursuant to K.S.A.
 0106 15-115 *et seq.*, and amendments thereto, shall be invalid.

0197 New Sec. 4. (a) No land shall be annexed pursuant to K.S.A.
 0198 12-520, and amendments thereto, unless approved by a ~~boundary~~
 0199 ~~commission~~ if, within 30 days following the conclusion of the
 0200 public hearing required by K.S.A. 12-520a, and amendments
 0201 thereto, a petition protesting the annexation is filed with the
 0202 county clerk. The petition shall be signed by the owners of at
 0203 least 51% of the acreage of the land within the area proposed to
 0204 be annexed or by at least 51% of the landowners in such area.
 0205 The petition shall: (1) Be addressed to the board of county
 0206 commissioners in which the land sought to be annexed is lo-
 0207 cated; (2) contain the names of property owners within the area
 0208 sought to be annexed, including a general description of the
 0209 boundaries of their property; (3) request that a ~~boundary com-~~

the board of county commissioners

0210 ~~mission be appointed~~ to consider the advisability of the annexa-
 0211 tion. ~~Upon certification of the petition by the county clerk, the~~
 0212 ~~clerk immediately shall notify the governing body of the annex-~~
 0213 ~~ing city that a sufficient petition has been filed and a boundary~~
 0214 ~~commission shall be appointed as provided by subsection (b).~~ If
 0215 the area to be annexed is located in more than one county, the
 0216 petition shall be filed with the clerk of the county in which there
 0217 is the greater number of landowners protesting the annexation.

the board call and hold a hearing

0218 ~~(b) The boundary commission shall be composed of five~~
 0219 ~~members: (1) The board of county commissioners shall appoint~~
 0220 ~~two members of the board of county commissioners to serve on~~
 0221 ~~the boundary commission; the county commissioner whose dis-~~
 0222 ~~trict includes the area to be annexed is located shall be one of the~~
 0223 ~~county commissioners appointed to the boundary commission. If~~
 0224 ~~the area to be annexed is located in more than one county, a~~
 0225 ~~commissioner from each county shall be appointed to the~~
 0226 ~~boundary commission; (2) the governing body of the city shall~~
 0227 ~~appoint two members of the governing body of the annexing city~~
 0228 ~~to serve on the boundary commission; (3) an impartial fifth~~
 0229 ~~member of the boundary commission, who shall be the chair-~~
 0230 ~~person of the commission, shall be selected by the four other~~

0231 ~~members. If the fifth member cannot be agreed upon by the~~
 0232 ~~other four members within five days, the judge of the district~~
 0233 ~~court in the area to be annexed shall appoint the fifth member.~~
 0234 ~~The boundary commission shall be appointed within 14 days of~~
 0235 ~~the certification of the petition by the county clerk.~~

0236 ~~(c) The boundary commission shall hold a public hearing on~~
 0237 ~~the proposed annexation. The date of the hearing shall be held~~
 0238 ~~within 14 days of the creation of the boundary commission.~~

0239 Unless the ~~boundary commission~~ determines adequate facilities
 0240 are not available, the public hearing shall be held at a site
 0241 located in or as near as possible to the area proposed to be
 0242 annexed. The hearing shall be held at a time which is most
 0243 convenient for the greatest number of interested persons. Notice
 0244 of the time and place of the hearing shall be published by the
 0245 county clerk in the official newspaper of the city at least once not
 0246 less than one week and not more than two weeks preceding the
 0247 date fixed for the public hearing. Notice also shall be mailed by
 0248 certified mail at least 10 days prior to the hearing to each owner
 0249 of land proposed to be annexed, the annexing city and to the
 0250 entities listed in subsection (d) of K.S.A. 12-520a, and amend-
 0251 ments thereto.

board

(b) 0252 ~~(d) At the hearing, time shall be set aside for the opponents~~
 0253 ~~and proponents of the annexation to be heard. All those wishing~~
 0254 ~~to be heard and to present documentary evidence or briefs shall~~
 0255 ~~be allowed to do so. The hearing may be adjourned from time to~~
 0256 ~~time, but the decision of the boundary commission shall be~~
 0257 ~~rendered within 14 days of the final adjournment of the hearing~~
 0258 ~~at which testimony was presented.~~

board of county commissioners

board

(c) 0259 ~~(e) The action of the boundary commission shall be quasi-~~
 0260 ~~judicial in nature. As such, the commission shall make specific~~
 0261 ~~written findings of fact and conclusions determining whether or~~
 0262 ~~not it is in the best interests of all involved to approve the~~
 0263 ~~annexation. The findings and conclusions shall be based upon~~
 0264 ~~the preponderance of evidence presented to the commission. In~~
 0265 ~~consideration of the advisability of the annexation, the commis-~~
 0266 ~~sion shall determine the extent to which the following criteria~~
 0267 ~~may effect the land to be annexed, the residents of the land to be~~

board

that such annexation or the annexation of a lesser amount of land will cause no manifest injury to the landowners

determining that no manifest injury will result, the board shall examine

landowners

0268 annexed, other governmental or quasi-governmental units pro-
0269 viding services to the land to be annexed, the utilities providing
0270 services to the land to be annexed, and any other such public or
0271 private person, firm or corporation which may be effected
0272 thereby;

0273 (1) Extent to which any of the land is devoted to agricultural
0274 use;

0275 (2) area of platted land relative to unplatted land;

0276 (3) topography, natural boundaries, drainage basins or any
0277 other physical characteristics which may be an indication of the
0278 existence or absence of common interest of the city and the area
0279 proposed to be annexed;

0280 (4) extent and age of residential development in the land to
0281 be annexed and adjacent land within the city's boundaries;

0282 (5) present and projected population and population density
0283 of the area proposed to be annexed during the next five years;

0284 (6) the extent of past business, commercial and industrial
0285 development in the area;

0286 (7) the present cost, methods and adequacy of governmental
0287 services and regulatory controls in the area;

0288 (8) the proposed cost, extent and necessity of governmental
0289 services to be provided by the city proposing annexation and the
0290 plan and schedule to extend 100% of such services;

0291 (9) tax impact upon property in the area;

0292 (10) extent to which the residents of the area are directly or
0293 indirectly dependent upon the city for governmental services;

0294 (11) effect of the proposed annexation on adjacent areas,
0295 including but not limited to other cities, fire, sewer and water
0296 districts, improvement districts, townships or industrial districts;

0297 (12) existing petition for incorporation of the area as a new
0298 city or special district government;

0299 (13) degree of opposition by owners of the land;

0300 (14) effect of annexation upon the utilities providing services
0301 to the land;

0302 (15) degree to which the city has provided governmental
0303 services to areas previously annexed;

0304 (16) availability of other more suitable land for annexation.

(d) 0305 ~~(f)~~ If a majority of the members of the boundary commission
 0306 conclude that the annexation should be allowed, the commission
 0307 shall approve the annexation by resolution and the city may
 0308 proceed to annex the land. All decisions and the specific reasons
 0309 therefor shall be recorded in the journal of the proceedings of the
 0310 commission. A copy of the order and the reasons therefor shall be
 0311 sent to the governing body of the city and a copy shall be filed
 0312 with the county clerk and shall be open for public inspection.
 0313 ~~(g)~~ If the annexation is disapproved, the city shall not attempt
 0314 to annex any portion of such land for a period of two years
 0315 following the date of issuance of the resolution disapproving the
 0316 annexation. Within 30 days following the issuance of any such
 0317 order, any owner of land or the city aggrieved by the decision of
 0318 the boundary commission may appeal from the decision of the
 0319 commission to the district court of the county in which the land is
 0320 located. The appeal shall be taken in the manner and method set
 0321 forth in K.S.A. 19-223, and amendments thereto. Any city so
 0322 appealing shall not be required to execute the bond prescribed
 0323 therein.

board of county commissioners determine no manifest injury will result, it

board

board of county commissioners

(e) 0324 ~~(h)~~ Notwithstanding any provision of this section, a city shall
 0325 be authorized to annex land which adjoins the city and for which
 0326 a written petition for or consent to annexation is filed with such
 0327 city by the owner.

~~0328 (i) Persons appointed to a boundary commission shall be paid
 0329 subsistence allowances, mileage and other expenses as provided
 0330 by K.S.A. 75-3223, and amendments thereto.~~

~~0331 (j) All costs incurred during the proceedings required by this
 0332 section shall be paid equally by the annexing city and the county
 0333 or counties in which the area to be annexed is located.~~

0334 New Sec. 5. Any written agreement entered into between a
 0335 city and the owner of the land proposed for annexation by the
 0336 city which conditions the delivery or extension of municipal
 0337 water, sewer, electrical, gas or other services to the land on the
 0338 consent of the owner to annexation on a later date shall be
 0339 deemed to be a sufficient consent to annexation under K.S.A.
 0340 12-520, and amendments thereto, by the owner and any succes-
 0341 sors in interest. Such agreements shall be filed by the city in the