

2/18/86

Approved \_\_\_\_\_  
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./~~PM~~ on February 12, 1986 in room 531-N of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Senator Ehrlich moved to adopt the minutes of the February 11, meeting. Senator Bogina seconded the motion. The minutes were adopted.

Staff reviewed S.B. 494. This bill would allow counties to utilize funds of the economic development program to construct sewer and water facilities, roads and streets; to relocate public or private utilities; to acquire and sell industrial sites; to award grants to industries as inducements to locate in that county.

S.B. 425 Senator Bogina moved to report the bill favorably as amended. Senator Salisbury seconded the motion. The motion carried.

S.B. 427 and S.B. 424 will be held in committee at this time.

H.B. 2117 - Staff presented the balloon of this bill and insert #1 with the amendments of the February 11th meeting.  
(Attachment 1)

Senator Winter expressed concern that not all sections of the proposed amendments were voted on. The Chairman stated each section was reviewed and the members were given the opportunity to vote on them. The only changes made since then have been procedural changes.

The Committee discussed section 5, of the insert. Senator Daniels recommended language be inserted in the bill, "The Boards consideration shall include but not be limited to the following criteria". Senator Winter made a motion to include Senator Daniel's recommendation, also, that it is not the intention of this committee to change existing case law in the State, but include language in the criteria that one thing to be considered is the benefit or detrement of the City as a whole in the annexation. Staff was instructed to find the proper language, with this additional language the list of 16 criteria be adopted. Senator Mulich seconded the motion.

Discussion followed on item 9 of the criteria, no change was made. Item 11 was amended by conceptual motion.

Senator Langworthy asked Senator Winter to yield for a question concerning item 16, concerning availability of other more suitable areas for annexation. She moved to strike item 16. Senator Mulich seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Local Government,  
room 531-N, Statehouse, at 9:00 a.m./<sup>XX</sup>p.m. on February 12, 1986.

Senator Salisbury recommended reinstatement in item 10, the language of H.B. 2117 as it passed out of the House last year, that language is "social, economic, employment, cultural and recreational opportunities and resources". Item 9 would be amended to "tax impact in the city and the area". After discussion it was the Committee consensus to do so.

Meeting adjourned at 10:00 a.m. and Senator Winter's motion was still on the floor. Next meeting will be at 9:00 a.m., February 13, 1986.

Sen Don Montgomery  
Senator Don Montgomery



INSERT #1

Section 1. K.S.A. 12-519 is hereby amended to read as follows: 12-519. As used in this act: (a) "Tract" means a single unit of real property under one ownership, outside the corporate limits of a city, which may be platted and/or unplatted, title to which is publicly or privately held by an owner as defined by subsection (c) ~~herein~~.

(b) "Land" means a part of a tract or one or more tracts.

(c) "Owner" means the one who has record title to a tract. In the event two ~~(2)~~ or more persons have record title to a tract, "owner" shall be defined as follows:

(1) If joint tenants, "owner" means a majority of the number of joint tenants; (2) if tenants in common, "owner" means both a majority of the number of tenants in common and the holders of a majority of the undivided interests in the tract; (3) if the tract is held by a life tenant and a remainderman, "owner" means the life tenant; (4) if the tract is held by a tenant under a recorded lease providing for a lease term of ~~ten~~ ~~(10)~~ 10 years or longer and a remainderman, "owner" means both such tenant and remainderman; (5) if one holds title to the surface and another holds title to the minerals, "owner" means the surface title holder.

(d) "Adjoins" means to lie upon or touch (1) the city boundary line; or (2) a highway, railway or watercourse which lies upon the city boundary line and separates such city and the land sought to be annexed by only the width of such highway, railway or watercourse.

(e) "Platted" means a tract mapped or drawn to scale, showing a division or divisions thereof, which map or drawing is filed in the office of the register of deeds by the owner of such tract.

(f) "Plat" means a map or drawing of a tract, filed in the office of register of deeds, showing a division or divisions thereof.

~~(f) -- "Agricultural purposes" as applied to the use of land means the planting, cultivation and harvesting of crops and/or raising and feeding of livestock for profit.~~ (g) "Land devoted to agricultural use" means land, regardless of whether it is located in the unincorporated area of the county or within the corporate limits of a city, which is devoted to the production of plants, animals or horticultural products, including but not limited to: Forages; grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products. Land devoted to agricultural use shall not include those lands which are used for recreational purposes, suburban residential acreages, rural home sites or farm home sites and yard plots whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of those plants or animals listed in the foregoing definition.

INSERT #2

Sec. 4. K.S.A. 12-520b is hereby amended to read as follows: 12-520b. The governing body of any city proposing to annex land under the provisions of K.S.A. 12-520, and amendments thereto, shall make plans for the extension of services to the area proposed to be annexed and shall, prior to the adoption of the resolution provided for in K.S.A. 12-520a, and amendments thereto, prepare a report setting forth such plans. The report shall include:

(a) A sketch clearly delineating the land proposed to be annexed and the area of the city adjacent thereto to show the following information:

(1) The present and proposed boundaries of the city affected by such proposed annexation;

(2) The present streets, water mains, sewers and other city utility lines, and the proposed extension thereof;

(3) The general land use pattern in the areas to be annexed.

(b) A statement setting forth ~~the plans~~ a detailed plan of the city for extending to the area to be annexed each major municipal service provided to persons and property located within the city and the area proposed to be annexed at the time of annexation, setting forth the method by which the city plans to finance the extension of such services to such area. Such statement shall also include a timetable of the plans for extending each major municipal service to the area annexed. The plan shall state the means by which the services currently provided in the area to be annexed shall be maintained at a level which is equal to or better than the level of services provided prior to annexation. The plan shall state those services which shall be provided immediately upon annexation and those services which may be provided upon petition of the landowners to create a benefit district.

The preparation of a plan for the extension of services as

hereinbefore required shall not be required for or as a prerequisite to the annexation of land of which all of the owners ~~of which~~ petition for or consent to such annexation in writing.

Sec. 5. K.S.A. 12-521 is hereby amended to read as follows:  
12-521. (a) Whenever the governing body of any city deems it advisable to annex land which such city is not permitted to annex under the authority of K.S.A. 12-520 and amendments thereto, the governing body in the name of the city may present a petition to the board of county commissioners of the county in which the land sought to be annexed is located. The petition shall set forth a legal description of the land sought to be annexed and request a public hearing on the advisability of such annexation. The governing body of such city shall make plans for the extension of services to the tract of land proposed to be annexed and shall file a copy thereof with the board of county commissioners at the time of presentation of the petition. Such report shall include:

~~(a)~~ (b) A sketch clearly delineating the land proposed to be annexed and the area of the city adjacent thereto to show the following information:

(1) The present and proposed boundaries of the city affected by such proposed annexation;

(2) The present streets, water mains, sewers and other city utility lines, and the proposed extension thereto;

(3) The general land use pattern in the areas to be annexed.

~~(b)~~ (c) A statement setting forth ~~the plans~~ a detailed plan of the city for extending to the area to be annexed each major municipal service provided to persons and property located within the city and area proposed to be annexed at the time of annexation, setting forth the method by which the city plans to finance the extension of such services to such area. Such plan shall include a timetable of the plans for the extension of major municipal service to the area proposed to be annexed. The plan shall state the means by which the services currently provided in

the area to be annexed shall be maintained at a level which is equal to or better than the level of services provided prior to annexation. The plan shall state those services which shall be provided immediately upon annexation and those services which may be provided upon petition of the landowners to create a benefit district.

(c) The date fixed for such public hearing shall be not less than ~~sixty-(60)~~ 60 nor more than ~~seventy--(70)~~ 70 days following the date of the presentation of the petition requesting such hearing. Notice of the time and place of ~~saïd~~ the hearing, together with a legal description of the land sought to be annexed and the names of the owners thereof, shall be published in ~~some~~ a newspaper of general circulation in the city not less than one week and not more than two weeks preceding the date fixed for such hearing.

A copy of the notice providing for the public hearing shall be mailed by certified mail to each owner of the land proposed to be annexed not more than ~~ten-(10)~~ 10 days following the date of the presentation of the petition requesting such hearing.

A sketch clearly delineating the area in such detail as may be necessary to advise the reader of the particular land proposed to be annexed shall be published with such notice and a copy thereof mailed to the owner of the property with such notice.

The board ~~may~~ for good cause shown may continue ~~saïd~~ the hearing beyond the time specified in the notice without further publication.

(d) On the day set for hearing, the board of county commissioners shall hear testimony as to the advisability of such annexation, and a representative of the city shall present the city's proposal for annexation, including the plan of the city for the extension of services to the area proposed to be annexed.

~~If-said-board-shall-be-satisfied-that-such-annexation-or-the annexation-of-a-lesser-amount-of-such-land-will-cause-no-manifest injury--to--such--owners,--they--shall--so--find--and--grant--the annexation-by-order,--and--thereupon--the-city-may-annex-the-land-by~~



*Amended  
a  
S.B.  
427*

~~ordinance-~~

The action of the board of county commissioners shall be quasi-judicial in nature. As such, the board shall make specific written findings of fact and conclusions determining whether or not such annexation or the annexation of a lesser amount of such area causes manifest injury to the owners of any land proposed to be annexed by a city. The findings and conclusions shall be based upon the preponderance of evidence presented to the board. In determination whether manifest injury would result from the annexation, the board shall consider the extent to which the following criteria may effect the area to be annexed, the residents of the area to be annexed, other governmental or quasi-governmental units providing services to the area to be annexed, the utilities providing services to the area to be annexed, and any other such public or private person, firm or corporation which may be effected thereby:

(1) Extent to which any of the area is devoted to agricultural use;

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

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

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

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

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

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

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

(9) tax impact upon property in the area;

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

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

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

(13) degree of opposition by owners of the land in the area;

(14) effect of annexation upon the utilities providing services to the area and the ability of those utilities to provide those services shown in the detailed plan;

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

(16) availability of other more suitable area for annexation.

(e) The board of county commissioners shall render a judgment within seven days after the hearing has been adjourned sine die. If a majority of the board of county commissioners conclude that the annexation or any part thereof should be allowed, they shall so find and grant the annexation by order; and thereupon the city may annex the land by ordinance. Orders of the board of county commissioners denying the petition or a part thereof for annexation shall require a majority vote of the members of the board. When an order denying a petition or part thereof is issued, it shall be by resolution, which shall be sent by certified mail to the city proposing the annexation. All orders of the board of county commissioners granting or denying petitions for annexation shall be spread at length upon the journal of proceedings of said the board. The failure of such board to spread an order granting annexation upon the journal shall not invalidate such order.

(f) Any owner or the city aggrieved by the decision of the board of county commissioners may appeal from the decision of

such the board to the district court of the same county in the manner and method set forth in K.S.A. 19-223, and amendments thereto. Any city so appealing shall not be required to execute the bond prescribed therein.

New Sec. 6. Before any city annexes any land pursuant to K.S.A. 12-520 or K.S.A. 12-521, and amendments thereto, the governing body of the city shall submit its resolution of intent to annex adopted pursuant to K.S.A. 12-520, and amendments thereto, or a copy of the petition submitted to the board of county commissioners pursuant to K.S.A. 12-521, and amendments thereto, to any city, county, township or joint city-county planning commission having jurisdiction over any portion of the area to be annexed. If the annexation is pursuant to K.S.A. 12-520, and amendments thereto, a copy of the resolution of intent to annex shall be submitted to the planning commission within 10 days following the adoption of the resolution by the city. If the annexation is by petition pursuant to K.S.A. 12-521, and amendments thereto, a copy of such petition shall be submitted to the planning commission within 20 days after the date on which the petition was presented to the board of county commissioners. The planning commission shall review the proposed annexation and make a finding of the compatibility or the incompatibility of the annexation with any adopted land use or comprehensive plans applicable to the area to be annexed and the annexing city. A copy of the planning commission's findings shall be sent to the city. If the city is annexing property pursuant to K.S.A. 12-521, and amendments thereto, a copy of such findings shall be filed with the board of county commissioners at least 20 days prior to the date of the hearing. The planning commission's findings shall be available for public inspection in the office of the city clerk. The failure of a planning commission to issue its advisory report prior to the date required by this section shall not invalidate any annexation commenced under K.S.A. 12-520 or 12-521, and amendments thereto, when the annexing city has complied with the provisions of this

section.

New Sec. 7. (a) Five years following the annexation of any land pursuant to K.S.A. 12-520 or 12-521, and amendments thereto, or, where there has been litigation relating to the annexation, five years following the conclusion of such litigation, the board of county commissioners shall call a hearing to consider whether the city has provided the municipal services as provided in the timetable set forth in the plan in accordance with K.S.A. 12-520b or 12-521, and amendments thereto. The board of county commissioners shall schedule the matter for public hearing and shall give notice of the date, hour and place of the hearing.

(b) At the hearing, the board shall hear testimony as to the city's extension of municipal services, or lack thereof, from the city and the landowner. After the hearing, the board shall make a finding as to whether or not the city has provided services in accordance with its service extension plan. If the board finds that the city has not provided services as provided in its service extension plan, the board shall notify the city and the landowner that such property may be deannexed, as provided in section 8, if the services are not provided within 2 1/2 years of the date of the board's findings.

New Sec. 8. (a) If, within 2 1/2 years following the conclusion of the hearing required by section 7, or, where there has been litigation relating to the hearing, 2 1/2 years following the conclusion of such litigation, the city has not provided the municipal services as provided in the timetable set forth in the plan prepared in accordance with K.S.A. 12-520b or 12-521, and amendments thereto, the owner of such land may petition the board of county commissioners to exclude such land from the boundaries of the city. Within 10 days after receipt of the petition, the board shall schedule the matter for public hearing and shall give notice of the date, hour and place of the hearing to: (1) The owner; (2) the city; (3) the township into which the property, if deannexed, would be placed; and (4) the governing body of any fire district, sewer district, water

district governments which have jurisdiction over territory adjacent to the area sought to be deannexed. The notice shall be sent by certified mail no less than 21 days before the date of the hearing.

(b) At the hearing, the board shall hear testimony as to the city's extension of municipal services, or lack thereof, from both the owner and representatives of the city. Except as provided by subsection (e), if the board finds after the hearing that the city has failed to provide the municipal services in accordance with the plan and consistent with the timetable therein, the board may enter an order excluding the land from the boundaries of the city. Any such order shall take effect in the same manner provided in K.S.a. 12-523, and amendments thereto, for the effective date of annexation ordinances. Such land shall not be annexed again for one year from the effective date of the order without the written consent of the owner of the land.

(c) The county clerk shall certify a copy of the order to the register of deeds of the county. The register of deeds shall record the order in the deed records of the county, and, at the expense of the owner, the register of deeds also shall record the order of exclusion on the margin of the recorded plat of such land, giving reference thereon to the page and book of records where the order is recorded in the register's office.

(d) Except as provided by this subsection, after the effective date of the order to exclude the land from the city, it shall not be liable for any general taxes imposed by the city. Such land shall remain liable, however, for any taxes or special assessments levied by the city as are necessary to pay its proportionate share of the interest and principal of such bonds or other indebtedness incurred by the city for improvements to the land which were approved by the city before the date on which the owner or owners filed a petition for the exclusion of the land from the city.

(e) The board shall not order exclusion of any land if:

(1) The service extension plan conditions the extension of

certain improvements or services on the filing of a legally sufficient petition by the owners of the land for the creation of an improvement district and to levy special assessments therein to pay a portion of the costs of such improvements, and a sufficient petition has not been filed;

(2) since the annexation, the governing body of the city initiated the creation of an improvement or benefit district affecting such land to levy special assessments thereon to pay a portion of the costs of certain municipal improvements, and the formation of the district was blocked by the filing of a sufficient protest petition of some or all of the owners of any land in the proposed district;

(3) the exclusion would result in the land being completely surrounded by other tracts of land located within the city's boundaries; or

(4) the board finds the exclusion of the land would have an adverse impact on the health, safety and welfare of the residents of the city or such land.

(f) Any owner or the city aggrieved by the decision of the board or commission may appeal the decision to the district court in the manner provided in K.S.A. 19-223, and amendments thereto. Any city so appealing shall not be required to execute the bond prescribed therein.

New Sec. 9. (a) The owner of any land in an area annexed by a city may bring an action in the district court of the county in which the land is located to compel the governing body of such city to provide the services in accordance with the service plan required by K.S.A. 12-520b or 12-521, and amendments thereto.

(b) The court shall hear testimony as to the city's extension of municipal services, or lack thereof, from both the owner and representatives of the city. If the court finds that the city has failed to provide the municipal services in accordance with the plan and consistent with the timetable therein, the court shall order the city to provide such services or in lieu thereof, the court may enter an order excluding the



land from the boundaries of the city. Any such order shall take effect in the same manner provided in K.S.a. 12-523, and amendments thereto, for the effective date of annexation ordinances. Such land shall not be annexed again for one year from the effective date of the order without the written consent of the owner of the land.

(c) The clerk of the district court shall certify a copy of the order to the register of deeds of the county. The register of deeds shall record the order in the deed records of the county, and, at the expense of the city, the register of deeds also shall record the order of exclusion on the margin of the recorded plat of such land, giving reference thereon to the page and book of records where the order is recorded in the register's office.

(d) Except as provided by this subsection, after the effective date of the order to exclude the land from the city, it shall not be liable for any general taxes imposed by the city. Such land shall remain liable, however, for any taxes or special assessments levied by the city as are necessary to pay its proportionate share of the interest and principal of such bonds or other indebtedness incurred by the city for improvements to the land which were approved by the city before the date on which the owner or owners filed the petition to compel the city to provide such services.

(e) The court shall not order exclusion of any land if:

(1) The service extension plan conditions the extension of certain improvements or services on the filing of a legally sufficient petition by the owners of the land for the creation of an improvement district and to levy special assessments therein to pay a portion of the costs of such improvements, and a sufficient petition has not been filed;

(2) since the annexation, the governing body of the city initiated the creation of an improvement or benefit district affecting such land to levy special assessments thereon to pay a portion of the costs of certain municipal improvements, and the

formation of the district was blocked by the filing of a sufficient protest petition of some or all of the owners of any land in the proposed district;

(3) the exclusion would result in the land being completely surrounded by other tracts of land located within the city's boundaries; or

(4) the board finds the exclusion of the land would have an adverse impact on the health, safety and welfare of the residents of the city or such land.

(f) If the court finds that the city has failed to provide the municipal services in accordance with the plan and consistent with the timetable therein, the court shall order the city to pay all attorney's fees and court costs.

New Sec. 10. Any written agreement entered into between a city and the owner of a land proposed to be annexed by the city which conditions the delivery or extension of municipal water, sewer, electrical, gas or other services to the land on the consent of the owner to annexation on a later date shall be deemed to be a sufficient consent to annexation under K.S.A. 12-520, and amendments thereto, by the owner and any successors in interest. Such agreements shall be filed by the city in the office of the register of deeds of the county where the property is located within 30 days after being executed by all parties. Any such agreement executed prior to the effective date of this act shall be binding upon the owner and any successors in interest if the agreement is filed by the city in the office of the register of deeds of the county where the property is located within 180 days following the effective date of this act, however, the failure to so file any written agreement within 180 days shall not make such agreement void or otherwise unenforceable. No fee shall be charged for such filing.

New Sec. 11. The governing body of any city annexing property pursuant to K.S.A. 12-520 or 12-521, and amendments thereto, may enter into contractual agreements with the owners of land proposed to be annexed to guarantee the apportionment of the



costs of improvements made in the area to be annexed between the city at large and the area to be annexed. The term of such agreements shall not exceed 10 years.

This section shall not preclude the formation of a benefit district to make such improvements upon petition by landowners in the area to be annexed.

New Sec. 12. The provisions of this act shall be applicable to any annexation for which the annexing city has adopted a resolution of intent to annex if proceeding pursuant to K.S.A. 12-520, and amendments thereto, or submitted a petition to the board of county commissioners if proceeding pursuant to K.S.A. 12-521, and amendments thereto, from and after September 1, 1985.

Sec. 13. If any part or parts of this act are held to be invalid or unconstitutional by any court, it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional part or parts.

Sec. 13. K.S.A. 12-519, 12-520, 12-520b and 12-521 and K.S.A. 1985 Supp. 12-520a are hereby repealed.

Sec. 14. This act shall take effect and be in force from and after its publication in the Kansas register.

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 1985

HOUSE BILL No. 2117

By Representatives Barr, Brown, Laird, Littlejohn,  
D. Miller and Smith

1-30

0022 AN ACT concerning municipalities; relating to annexation;  
0023 amending K.S.A. ~~12-520~~ and repealing the existing section;  
0024 [K.S.A. ~~1984~~ Supp. 12-520a and repealing the existing sec-  
0025 tions.]

12-519, 12-520, 12-520b and 12-521

1985

0026 *Be it enacted by the Legislature of the State of Kansas:*

0027 ~~Section 1~~ K.S.A. 12-520 is hereby amended to read as fol-  
0028 lows: 12-520. (a) Except as otherwise hereinafter provided, the

See Insert #1, attached

0029 governing body of any city may by ordinance may annex land to

Sec. 2.

0030 such city if any one or more of the following conditions exist:

0031 (a) (1) The land is platted, and some part of such the land  
0032 adjoins the city.

, except no land in excess of 21 acres shall be annexed under this  
condition

0033 (b) (2) The land is owned by or held in trust for the city or  
0034 any agency thereof.

0035 (c) (3) The land adjoins the city and is owned by or held in  
0036 trust for any governmental unit other than another city, except  
0037 that no city may annex land owned by a county which has  
0038 primary use as a county-owned and operated airport, or other  
0039 aviation related activity, without the express permission of the  
0040 board of county commissioners of such the county.

0041 (d) (4) The land lies within or mainly within the city and has  
0042 a common perimeter with the city boundary line of more than  
0043 y percent (~~50%~~) 50%.

0044 (e) (5) The land if annexed will make the city boundary line  
0045 straight or harmonious and some part thereof adjoins the city,  
0046 except no land in excess of twenty (20) ~~20~~ acres shall be annexed  
0047 for this purpose.

21

2/2/86  
(Attachment 1)  
S. 46

0048 (f) (6) The tract is so situated that two-thirds (~~2/3~~) 2/3 of any  
0049 boundary line adjoins the city, except no tract in excess of twenty  
0050 acres shall be annexed under this condition. [21]

0051 (g) (7) The land adjoins the city and a written petition for or  
0052 consent to annexation is filed with the city by the owner.

0053 No ~~[portion of any]~~ unplatted tract of land of fifty five (~~55~~) 55  
0054 acres or more which is used only for agricultural purposes shall  
0055 be annexed by any city under the authority of this section  
0056 without the written consent of the owner thereof. ~~In order to~~  
0057 ~~prevent piece meal annexation, no city shall annex any portion~~  
0058 ~~of such agricultural land without the written consent of the~~  
0059 ~~owner thereof.~~

(8) The land is surrounded by the city boundary line.

0060 Whenever any city shall ~~annex~~ annexes any land under the  
0061 authority of subsection (b) of this section paragraph (2) of this  
0062 subsection which does not adjoin the city, tracts of land adjoining  
0063 the land so annexed shall not be deemed to be adjoining the city  
0064 for the purpose of annexation under the authority of this section  
0065 until ~~such~~ the adjoining land or the land so annexed adjoins the  
0066 remainder of the city by reason of the annexation of the inter-  
0067 vening territory.

(b)

(a)

0068 No city shall be authorized to annex the right-of-way of any  
0069 highway under the authority of this section unless at the time of  
0070 ~~such~~ the annexation the abutting property upon one or both sides  
0071 thereof is already within the city or is annexed to the city in the  
0072 same proceeding.

(c)

0073 The governing body of any city may by one ordinance may  
0074 annex one or more separate tracts or lands each of which con-  
0075 forms to any one or more of the foregoing conditions. The  
0076 invalidity of the annexation of any tract or land in one ordinance  
0077 shall not affect the validity of the remaining tracts or lands which  
0078 are annexed by ~~such~~ the ordinance and which conform to any  
0079 one or more of the foregoing conditions.

(d)

Notwithstanding any of the provisions in subsection (a),  
(e) /nothing in this section shall be construed as authorizing a city to  
annex a portion of any tract if the city cannot annex  
such tract by the adoption of one ordinance pursuant to this  
section.

0080 Any owner of land annexed by a city under the authority of this  
0081 section may subsection, within thirty (~~30~~) 30 days next following  
0082 the publication of the ordinance annexing ~~such~~ the land, may  
0083 maintain an action in the district court of the county in which  
0084 ~~such~~ the land is located challenging the authority of the city to

(f)

0086 ~~text such lands the land and the regularity of the proceedings~~  
0087 ~~had in connection therewith.~~

0088 ~~(b) If, within 60 days after the last publication of an annex-~~  
0089 ~~ation ordinance, a petition signed by at least 5% of the qualified~~  
0090 ~~voters residing within the area proposed to be annexed is filed~~  
0091 ~~with the county election officer, the land shall not be annexed~~  
0092 ~~until the proposal has been submitted for approval at an elec-~~  
0093 ~~tion by the qualified voters residing within the area proposed to~~  
0094 ~~be annexed. Except as provided herein, the election shall be held~~  
0095 ~~at the next school district or county primary or general election.~~  
0096 ~~Notice of the election shall be given in the manner provided by~~  
0097 ~~the general election law. If there is no school district or county~~  
0098 ~~primary or general election within 60 days after the petition is~~  
0099 ~~filed, then the question shall be submitted by a mail ballot~~  
0100 ~~election in the manner provided by K.S.A. 25-431 et seq., and~~  
0101 ~~amendments thereto. A 51% majority vote against the proposal~~  
0102 ~~shall be required to defeat the proposal; the owners of not less~~  
0103 ~~than 51% of the property within the area proposed to be annexed~~  
0104 ~~and by not less than 51% of the property owners in such area is~~  
0105 ~~filed with the county clerk who shall certify that the petition~~  
0106 ~~contains the names of the owners of not less than 51% of the~~  
0107 ~~property within the area proposed to be annexed and the names~~  
0108 ~~of not less than 51% of the property owners in such area. The~~  
0109 ~~petition shall: (1) Be addressed to the board of county commis-~~  
0110 ~~sioners in which the land sought to be annexed is located; (2)~~  
0111 ~~contain the names of property owners within the area sought to~~  
0112 ~~be annexed, including a general description of the boundaries of~~  
0113 ~~their property; (3) request that the board of county commission-~~  
0114 ~~ers deny the petition for annexation.~~

0115 ~~Upon certification of the petition by the county clerk, the~~  
0116 ~~board of county commissioners shall fix a date and give notice of~~  
0117 ~~a public hearing to be held thereon. The date fixed for such~~  
0118 ~~public hearing shall be not less than 30 days following the date of~~  
0119 ~~the certification of the petition requesting denial of the annexa-~~  
0120 ~~tion. Notice of the time and place of the hearing, together with a~~  
0121 ~~legal description of the land sought to be annexed and the names~~  
of the owners thereof, shall be published in the official county

0122 newspaper or any other newspaper of general circulation in the  
0123 county, not less than one week and not more than two weeks  
0124 preceding the date for such hearing. The hearing shall be held at  
0125 the county courthouse in the county where the petition is filed.

0126 Notice of receipt of the petition requesting denial of annexa-  
0127 tion shall be sent by certified mail to the city proposing annexa-  
0128 tion. At least five days prior to publication of the notice of the  
0129 hearing, notice of such hearing shall be sent by certified mail to  
0130 the city proposing annexation, to the township in whose bound-  
0131 aries the territory proposed to be annexed lies and to the prop-  
0132 erty owners in the area proposed to be annexed.

0133 The hearing shall be conducted in a judicious manner, pre-  
0134 sided over by the chairman of the board of county commission-  
0135 ers. The hearing may be adjourned from time to time. Time shall  
0136 be set aside for the proponents of the proposed annexation to be  
0137 heard and to present documentary evidence and briefs support-  
0138 ing the contention that the annexation should be allowed. Fol-  
0139 lowing the time set aside for proponents, time shall be set aside  
0140 for the opponents of the proposed legislation to be heard and to  
0141 present documentary evidence and briefs supporting the con-  
0142 tention that the annexation should be denied. All those wishing  
0143 to be heard and to present documentary evidence or briefs shall  
0144 be allowed to do so.

0145 As a guide in determining the advisability of the proposed  
0146 annexation, the board of county commissioners shall consider  
0147 the following factors among others:

0148 [(1) Extent to which any of the land is used for agricultural  
0149 crop production, nursery stock, truck gardening or animal hus-  
0150 bandry;

0151 [(2) tax impact upon property in the area;

0152 [(3) extent of residential development which has been in  
0153 existence for 20 years or longer;]

0154 ~~[(4) population]~~ [(4) Present and prospective population] and  
population density of the area proposed to be annexed;

0155 ~~[(5) area of platted land relative to unplatted and assessed~~  
0156 ~~value of platted land relative to assessed value of unplatted~~  
0157 ~~areas; [and;]~~

0160 (3) [(6)] likelihood of significant growth in the area and in  
0161 adjacent areas during the next five years;

0162 (4) [(7)] the present cost and adequacy of governmental ser-  
0163 vices and [regulatory] controls in the area;

0164 (5) [(8)] the proposed cost, extent and necessity of govern-  
0165 mental services to be provided by the city proposing annexation  
0166 and the estimated length of time to extend 100% of such services;

0167 (6) ~~present level of direct reliance of the area upon services~~  
0168 ~~provided by the city proposing annexation;~~ [(9)] extent to which  
0169 the residents of the area are directly or indirectly dependent  
0170 upon the city for governmental services and for social, economic,  
0171 employment, cultural and recreational opportunities and re-  
0172 sources;]

0173 (7) [(10)] past growth of the area in terms of population and  
0174 the extent of business, commercial and industrial development;

0175 (8) [(11)] effect of the proposed annexation on adjacent areas,  
0176 including other cities, improvement districts or industrial dis-  
0177 tricts; and

0178 (9) [(12)] topography, natural boundaries, [storm and sanitary  
0179 sewers,] drainage basins, transportation links, or any other phys-  
0180 ical characteristics which may be an indication of the existence  
0181 or absence of common interest of the city and the area proposed  
0182 to be annexed.];]

0183 [(10)] likelihood of the formation of new cities or special  
0184 district governments if the annexation is denied;

0185 [(11)] the date of the city's incorporation and whether the  
0186 current owners of the land proposed for annexation acquired an  
0187 interest in the land after the date of the city's incorporation;

0188 [(12)] whether denial of the annexation will result in the city  
0189 being unable to annex other urbanizing areas in the near future.]

0190 The board of county commissioners shall render a judgment  
0191 within seven days after the hearing has been adjourned *sine die*.  
0192 If a majority of the board of county commissioners conclude that  
0193 the annexation should be allowed, they shall grant the annexa-  
0194 tion by resolution and the city may proceed to annex the land by  
0195 ordinance. Orders of the board of county commissioners denying  
0196 petitions for annexation shall require a majority vote of the

0196 members of the board. When an order denying a petition for  
 0197 annexation is issued, it shall be by resolution, which shall be  
 0198 sent by certified mail to the city proposing the annexation. Such  
 0199 city may not submit a subsequent petition for annexation of any  
 0200 portion of the land sought to be annexed for a period of ~~five years~~  
 0201 [one year] following the date of receipt of the resolution denying  
 0202 the petition for annexation. [Any owner of land or the city  
 0203 aggrieved by the decision of the board of county commissioners  
 0204 may within 30 days following the issuance of the resolution  
 0205 appeal from the decision of the board to the district court of the  
 0206 county in which the land is located. The appeal shall be taken in  
 0207 the manner and method set forth in K.S.A. 19-223 and amend-  
 0208 ments thereto. Any city so appealing shall not be required to  
 0209 execute the bond prescribed therein.]

0210 *Any suit, action or other proceeding, judicial or administra-*  
 0211 *tive, relating to the power and authority of cities to annex*  
 0212 *unincorporated territory which is pending prior to the effective*  
 0213 *date of this act shall be subject to the provisions of this act.*

0214 *Notwithstanding any provision of this subsection, a city shall*  
 0215 *be authorized to annex land which adjoins the city and for*  
 0216 *which a written petition for or consent to annexation is filed*  
 0217 *with such city by the owner.*

0218 ~~Sec. 2. K.S.A. 12-520 is hereby repealed.~~

Sec. 3.

0219 ~~[Sec. 2. K.S.A. 1984, Supp. 12-520a is hereby amended to~~

1985

0220 read as follows: 12-520a. (a) The governing body of any city

0221 desiring to annex land under the authority of K.S.A. 12-520, and

0222 amendments thereto, ~~shall~~ first adopt a resolution stating that the

shall

0223 city is considering the annexation of the land. The resolution

0224 shall:

0225 [(1) Give notice that a public hearing will be held to consider

0226 the annexation of the land and fix the date, hour and place of the

0227 public hearing;

0228 [(2) Describe the boundaries of the land proposed to be

0229 annexed; and

0230 [(3) State that the plan of the city for the extension of services

0231 to the area proposed to be annexed, which is required under the

0232 provisions of K.S.A. 12-520b, and amendments thereto, is avail-

. Unless the governing body of the city determines adequate facilities are not available, the public hearing shall be held at a site located in or as near as possible to the area proposed to be annexed. The hearing shall be held at a time which is most convenient for the greatest number of interested persons

0233 able for inspection during regular office hours in the office of the  
0234 clerk.

0235 (b) The date fixed for the public hearing shall be not less  
0236 than 60 nor more than 70 days following the date of the adoption  
0237 of the resolution fixing the date of the hearing.

0238 [(c) A copy of the resolution providing for the public hearing  
0239 shall be mailed by certified mail to each owner of land proposed  
0240 to be annexed ~~and to each fire district, rural water supply~~  
0241 ~~district and to any other district providing services to the area~~  
0242 ~~proposed to be annexed~~ not more than 10 days following the date  
0243 of the adoption of the resolution. The resolution shall be pub-  
0244 lished in the official newspaper of the city not less than one week  
0245 and not more than two weeks preceding the date fixed for the  
0246 public hearing. A sketch clearly delineating the area in such  
0247 detail as may be necessary to advise the reader of the particular  
0248 land proposed to be annexed shall be published with the reso-  
0249 lution and a copy thereof mailed to the owner of the property  
0250 with the resolution.

0251 [(d) At the public hearing, a representative of the city shall  
0252 present the city's proposal for annexation, including the plan of  
0253 the city for the extension of services to the area proposed to be  
0254 annexed. Following the explanation, all interested persons shall  
0255 be given an opportunity to be heard. The governing body may  
0256 recess, for good cause shown, the hearing to a time and date  
0257 certain, which shall be fixed in the presence of persons in  
0258 attendance at the hearing.

0259 [(e) No resolution, notice and public hearing required under  
0260 the provisions of this section shall be required as a prerequisite  
0261 to the annexation of land owned by or held in trust for the city or  
0262 any agency thereof or land all of the owners of which petition for  
0263 or consent thereto in writing.

0264 [(f) Any resolution, adopted pursuant to this section, which  
0265 includes territory subsequently incorporated pursuant to K.S.A.  
0266 115 *et seq.*, and amendments thereto, shall be invalid.

0267 [Sec. 3, K.S.A. 12-520 and K.S.A. 1984 Supp. 12-520a are  
0268 hereby repealed.]

0269 Sec. 3 [4]. This act shall take effect and be in force from and  
0270 after its publication in the statute book.

(d) A copy of the resolution providing for the public hearing shall be sent by certified mail not more than 10 days following the date of the adoption of the resolution to:

- (1) The board of county commissioners;
- (2) the governing body of the township where the land to be annexed is located;
- (3) any special assessment district or governmental unit providing municipal services to the area proposed to be annexed including, but not limited to, sewer districts, rural water districts, fire districts or improvement districts;
- (4) any utilities providing services to the area proposed to be annexed;
- (5) the governing body of any school district in the area proposed to be annexed;
- (6) any city, county, township or joint planning commission having jurisdiction over the area proposed to be annexed; and
- (7) any other political or taxing subdivision located within the area proposed to be annexed.

(e)

(f)

(g)

See Insert #2, attached