

Approved 2-25-87 Ivan Sand
Date

MINUTES OF THE House COMMITTEE ON Local Government

The meeting was called to order by Representative Ivan Sand at
Chairperson

1:30 XXX a.m./p.m. on February 24, 1987 in room 521-S of the Capitol.

All members were present except:

Representative Miller, Excused Representative Kennard, Absent
Representative Douville, Excused
Representative Dean, Excused

Committee staff present:

Mike Heim, Legislative Research Dept.
Bill Edds, Revisor of Statutes' Office
Sharon Green, Committee Secretary

Conferees appearing before the committee:

Representative Bill Roy
Kevin Davis, League of Kansas Municipalities
Austin Nothorn, Chairman, Downtown Topeka Business Improvement District Planning
Committee
Dick Pratt, Downtown Topeka Business Improvement District Planning Committee
Paul Graves, Capital City Redevelopment Agency, City of Topeka
Representative Marvin Smith
Representative Fred Rosenau
Jim Kaup, League of Kansas Municipalities
John Reilly, President of Shawnee County 4-H Fair Board
Damon Slyter, Chairman of Shawnee County 4-H Livestock Sale
Doug Martin, Shawnee County Counselor
Velma Paris, Shawnee County Commissioner
Franklin Williams, R.R. 13, Topeka, Kansas
Norman Stahl, 4-H Fair Board, Shawnee County

Chairman Sand called the meeting to order.

Representative Roy testified in support of HB 2357, stating that a business district can be created and incur obligations, but at any time a petition in opposition to the continuation of the district may be filed, and upon a vote of members of the district, the district is dissolved. The district may incur obligations, but not remain intact to fulfill those obligations. He stated that this bill creates a degree of permanency in the formation of a district. (Attachment 1) Representative Roy also stated that Mayor Doug Wright and the City of Topeka officials support this bill.

Kevin Davis testified in support of HB 2357, stating that this bill allows for the completion of a logical budget and service contract period, and that the bill will provide for the most responsible planning and budgeting for service delivery, as well as for a fiscally responsible means to disorganize a business improvement district. (Attachment 2)

Austin Nothorn testified in support of HB 2357, stating that this bill would permit operation and planning for one year at a time while still preserving a reasonable right to dissolve. (Attachment 3)

Dick Pratt testified in support of HB 2357, stating that a petition to dissolve would cut off funding but the district would still have obligations to hired personnel, and that this legislation is reasonable.

Paul Graves testified in support of HB 2357, stating that the time schedule (Attachment 4) shows the need for a calendar year's time to complete the obligations of a business improvement district.

A discussion was held on HB 2357 among committee members and conferees.

Representative Smith testified in support of HB 2358, stating that this bill proposes to limit the acreage assessment for sewer districts to not exceed $3\frac{1}{2}$ acres of an owner's unplatted property. (Attachment 5)

Representative Rosenau testified in support of HB 2358, stating that the $3\frac{1}{2}$

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Local Government,
room 521-S, Statehouse, at 1:30 XX a.m./p.m. on February 24, 1987

acres comes from a court citation in Johnson County about 35 years ago, and that this bill would exempt from assessments for sewer districts on anything over 3½ acres of unplatted property.

Jim Kaup testified on HB 2358, stating that there were problems with the concept and wording in lines 27-31, 40-45, and 47-50. He stated that he was concerned about litigation if the bill was enacted, and that the connection between benefit and cost needed to be looked at. Mr. Kaup also stated that the consequences of this bill discourages cities to plan for sewers when annexing property.

A discussion was held among committee members and conferees.

Representative Smith testified in support of HB 2360, stating that some 4-H Club leaders and members of Shawnee County 4-H Fair contacted some members of the Shawnee County Legislative Delegation concerning propped legislation for providing more structure for a Shawnee County Fair Board. He stated that it appears Shawnee County needs an elected Fair Board of and by qualified electors to administer the fair. (Attachment 6)

John Reilly testified in support of HB 2360, stating that the County 4-H Fair Board needs more structure and to be recognized by the State Board of Agriculture. (Attachment 7)

Damon Slyter testified in support of HB 2360, stating that a recognized county fair association is needed and that this bill will provide the structure necessary. (Attachment 8)

Doug Martin testified on HB 2360, stating that he was neither for or against the bill, but expressed concerns with it. He stated that there were presently statutes providing for the Shawnee County Fair. Mr. Martin stated that there was concern that the language of the bill on line 125 could be construed as setting an upper limit only on the mill levy therein, and in effect require the Board of County Commissioners to pass whatever budget is submitted to them. He also was concerned with the surety bond mentioned on line 92. (Attachment 9)

Velma Paris testified on HB 2360, stating that she was in support of the intent in the bill, but had concerns about the permissive language in line 125. (Attachment 10)

Franklin Williams testified on HB 2360, stating that he was in favor of the concept of the bill, and that there is a need for a concrete structure for the fair board. (Attachment 11)

Norman Stahl testified on HB 2360, stating that he felt fortunate to have 3 Shawnee County Commissioners who supported 4-H Fairs and it is important to address the Agriculture Board the most fair way we can.

Representative Smith testified again, stating that he has concerns for the future of 4-H, and that there was a need for an elected Fair Board. He stated that the board has operated as an advisory board to the Agriculture extension office.

Chairman Sand appointed a sub-committee to study HB 2358, with Representative Holmes as Chairman, and Representatives Patrick and Bowden as members.

Chairman Sand appointed a sub-committee to study HB 2360, with Representative Beauchamp as Chairman, and Representatives Rezac and Acheson as members.

The minutes of February 23 were approved as presented.

Meeting adjourned.



TOPEKA

HOUSE OF
REPRESENTATIVESWILLIAM R. ROY, JR.
REPRESENTATIVE FIFTY-THIRD DISTRICT
STATE CAPITOL
TOPEKA, KANSAS 66612COMMITTEE ASSIGNMENTS
MEMBER ELECTIONS
FEDERAL AND STATE AFFAIRS
JUDICIARY

TESTIMONY BEFORE HOUSE LOCAL GOVERNMENT COMMITTEE

House Bill 2357, February 24, 1987

Members of the Committee, I appear today in support of House Bill 2357. It is a bill sponsored by Representative Acheson and me at the request of the Downtown Topeka Business District.

Under current law, a business district can be created and incur obligations. However, at any time following its creation a petition in opposition to the continuation of the district may be filed, and upon a vote of members of the district, the district immediately is dissolved. This creates a problem insofar as the district may incur obligations, but not remain intact to fulfill those obligations.

This bill creates a degree of permanency in the formation of a district. It allows the district to be dissolved, but only within the first forty-five days. If not dissolved, the district is effective through the end of the calendar year. The district must then be renewed annually thereafter.

I urge your favorable consideration of House Bill 2357.

Attachment 1
2-24-87



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: House Committee on Local Government
FROM: Kevin R. Davis, Attorney
DATE: February 24, 1987
SUBJECT: HB 2357

The League of Kansas Municipalities has taken a position in support of HB 2357.

We believe that this amendment will provide for the orderly dissolution of business improvement districts (BIDs). Rather than terminating the BID immediately after receipt of a qualifying petition, this new procedure allows for the completion of a logical budget and service contract period, i.e., the calendar year.

This appears to be a fair and logical treatment of businesses since they were originally involved as the district planning committee and then as an advisory board to the city. Presumably, the city would not create a BID without the enthusiastic support of at least a majority of the businesses in the district.

We feel this amendment will provide for the most responsible planning and budgeting for service delivery, as well as for a fiscally responsible means to disorganize a BID.

*Attachment 2
2-24-87*

Presidents: John L. Carder, Mayor, Iola • Vice Presidents: Carl Dean Holmes, Mayor, Plains • Past Presidents: Ed Eilert, Mayor, Overland Park • Directors: Robert C. Brown, Commissioner, Wichita • Robert Creighton, Mayor, Atwood • Irene B. French, Mayor, Merriam • Frances J. Garcia, Commissioner, Hutchinson • Donald L. Hamilton, City Clerk/Administrator, Mankato • Paula McCreight, Mayor, Ness City • Jay P. Newton, Jr., City Manager, Newton • John E. Reardon, Mayor, Kansas City • David E. Retter, City Attorney, Concordia • Arthur E. Treece, Commissioner, Coffeyville • Deane P. Wiley, City Manager, Garden City • Douglas S. Wright, Mayor, Topeka • Executive Director: E.A. Mosher

Establishing a Business Improvement District

EDITOR'S NOTE. This report was the basis of remarks by E.A. Mosher, Executive Director of the League of Kansas Municipalities, to the Kansas Main Street Conference held on October 22, 1986. Business improvement districts now exist in only a few Kansas cities, including Manhattan (2), Hutchinson, Salina, Lawrence (in process) and Emporia (1987). However, it is under serious consideration in other cities, including Topeka, in part because of a resurgence of interest in the revitalization of downtown areas in Kansas. The report by Mosher, who was active in the preparation and lobbying for the League-sponsored bill which created the business improvement district law, primarily deals with the concepts and purposes of the law. While the procedure for creating and operating a district is briefly discussed, reference should be made to the enabling statute.

The business improvement district act, K.S.A. 12-1781 *et seq.*, as enacted by the 1981 legislature, authorizes any Kansas city to establish a business improvement district (BID). The primary purpose of the act is to provide a method of financing "additional and extended services to businesses" within the district. It was intended to be supplemental to other private business actions, individually and collectively through non-profit groups like a chamber or a downtown development group. And it was intended to be supplemental to other public (city) actions to support and service business areas.

The legislative intent that a BID be a joint public-private initiative is assured by the legal requirements that (1) a planning committee be appointed to initiate the district; (2) an advisory board representative of businesses within the district be appointed, charged with the development of an annual program of services and a recommended

budget; and (3) a mandate that the district be discontinued upon the filing of a petition in opposition signed by not less than a majority of the businesses within the district.

"Services," Not "Capital Improvements"

It is important to note that the word "improvement" is used in the act in the sense of "improving" and not in the sense of making capital or physical improvements. The term "services" is repeated frequently throughout the act, with never a reference to the making of a capital improvement which might require multi-year or debt financing. The intent of the drafters of the bill, and the obvious legislative intent of the act, is that a BID is a mechanism to provide services. Other means exist by which capital improvements can be financed in business areas, including the levying of special assessments. The BID act was designed to be supplemental and consistent with other Kansas statutes and city powers. In my judgment, we ought not to try to make it something else.

Additional Services

It is also important to understand that a basic thrust of the act is to provide a method by which special or "additional and extended" services may be provided to a defined area, at the expense of businesses within the district instead of the city at large. As an example, additional police services may be provided within and at the expense of businesses in the district, over and above the normal level of police protection provided throughout the city. The act should not be used to shift the general, citywide expense of common and traditional services from the city at large to the district.

On Businesses, Not Property

Another important concept of the law is that the annual service fees are on the "businesses," and not on property (K.S.A. 12-1791). The ownership of the property is irrelevant. Even city- or church-owned property that might otherwise be tax-exempt is considered a "business" unless the property is "used exclusively" for an exempt purpose. Because of this, proposals that service fees be collected through the property tax system are inconsistent with the intent of the act.

Types of Services

K.S.A. 12-1784 specifies the kinds of services that may be provided within an improvement district. It is very broad, and refers to "such services as will restore or promote the economic vitality of the district and the general welfare of the city." While there is a specification of some services, these are simply illustrative. Further, subsection (f) of K.S.A. 12-1784 concludes that the district may provide "any other services which the city is authorized to perform and which the city does not also perform to the same extent on a citywide basis."

To supplement this broad discretion, the act does specify some examples of services, as follows:

(a) Beautification, such as by landscaping and plantings, fountains, shelters, benches, sculptures, signs, lighting, decorations and similar amenities, "including the maintenance thereof."

(b) Special or additional public services, such as sanitation, security of persons and property, and the maintenance of public facilities, including sidewalks and other public areas.

(c) Financial support of public transportation services and vehicle parking facilities open to the public, including the operation and maintenance of parking facilities.

(d) Development of plans for the general architectural design of the district and plans for future development.

(e) Development and support of community events and activities.

(f) Any other services.

Public Funds

While the act encourages the formation and operation of business improvement districts as a joint private-public venture, a BID is, in fact, a *governmental operation*. The service fees are public funds, and are subject to the same kinds of procedural and legal restraints as apply to the use of other public moneys, such as property taxes. The expenditure of service fees, apply to within the required separate fund required by K.S.A. 12-1792, is subject to the same cash basis, budget and "public purpose" requirements as are any other public funds. As a result, it is the elected governing body of the city that must make all the final deci-

sions, not the advisory board and not those who pay the bill.

Even at the recommendation of the advisory board, and with a unanimous vote of the governing body, a city may not use public funds for nongovernmental purposes. A city may not "give away" public funds, no matter how laudible the purpose. Public money must be used for a public, governmental purpose, and for a purpose within the jurisdiction of the controlling agency. Contracts are permitted; a city with a BID could contract with a non-profit or even a for-profit agency to provide specified services. But it may not make "grants" or "gifts" except pursuant to an agreement that a public service will be provided.

Annual Service Fees

Under K.S.A. 12-1791, broad authority is given to the city governing body to determine the annual business improvement service fees applicable to businesses within the district. The act permits the governing body to provide for a "reasonable classification" of businesses, and provides that the annual fees may be based on a variety of factors, such as physical space, front footage or number of employees.

The assessed valuation of property for tax purposes is not included as one of the listed statutory factors. In itself, this omission does not appear to exclude its use, since "such other factors or combination thereof as shall be deemed reasonable," may be used. However, business service fees based substantially on assessed valuation appear vulnerable to legal challenge. There is a standard procedure for levying *ad valorem* property taxes in Kansas. Further, by definition, property taxes are based on "value," not "benefits" — the concept of BID financing.

The "Utility" Concept — Coordination

In municipal parlance, a BID is essentially a "utility." The service fees go into a special fund, and the moneys may be used only for services for the district. However, it is not an exclusive means to provide public services to the district — a fact clearly indicated by the statutory purpose of a BID: to provide "additional or extended" services. The BID, and its service role, should be integrated and coordinated with the total city "system." In my own judgment, attempts to make it a "captive" of the businesses involved, operating independently of the city, will not serve the best interests of the business involved.

Collecting the Fees

Unpaid annual BID service fees do not become a lien against the benefitted property as do delinquent taxes, or sewerage service charges. There is no means to turn off service as can be done for delinquent

water bills. There is no license to do business which can be denied on failure to pay the bill. How do you collect from the recalcitrant business owner?

The answer, I think, is a combination of persuasion and force — persuasion by the city and by those businesses that do pay, and force through civil remedies available for the collection of debt owed the city. The city may haul the delinquent business into municipal court — the fees are levied by ordinance and ordinance violations are subject to prosecution. Indeed, there appears to be nothing to prohibit the fee-levying ordinance from providing a penalty for failure to pay.

In addition, a civil action could be brought in district court for the unpaid "debt," or in the small claims court if the amount does not exceed the \$1,000 limit upon small claims actions. The collection experience of at least one Kansas city indicates that reliance on public spirited "voluntary contributions" does not work well, and unenforced collections only breeds further delinquencies. If a city doesn't want to force collections, it probably shouldn't try the BID approach.

Procedure

The procedure for establishing a business improvement district is set forth in the state law. In brief, it involves the following steps: (1) The mayor appoints a district planning committee. (2) The planning committee studies and develops preliminary plans for the establishment and operation of the district, and submits its report and recommendations to the city governing body. (3) The governing body initiates the formation of the district by the adoption of a resolution of intent, which describes the boundaries, presents a general description of the services to be provided and the estimated annual costs during the next three years, proposes a method of financing, and schedules a public hearing following published and mailed notices. (4) Following the public hearing, the governing body may create the district by passing an ordinance which describes the boundaries, summarizes the service and financing methods and provides for the appointment of a district advisory board. (5) The district advisory board, representative of businesses within the district, annually submits to the governing body a program of recommended services and an annual budget. (6) The services to be provided and the supporting fees are handled through the annual city budget, in the same manner as are other city programs and expenditures. The same procedure is required for each BID that is formed.

Unlike some other district formation procedures, such as the establishment of special assessment benefit districts for certain capital improvements, there is no statutory procedure for a legally-binding protest peti-

tion to be submitted at or before the public hearing. However, there is a "stop procedure." Under K.S.A. 12-1789, the owners of businesses within the district may file a petition in opposition to the *continuation* of the BID. Upon a finding that a majority of the districts' businesses have signed the petition, the governing body is required to void the district, repeal the ordinance and refund any unused moneys on a pro rata basis. This potential for "mid-stream" discontinuation, while perhaps assuring responsiveness to the district businesses, presents some potential problems. It is inconsistent with the three-year planning requirement of other sections of the act, and it could even stop a current year budgeted service program. Further, it could nullify annual phase-in programs, such as beautification improvements scheduled over a three-year period, with one-third of the cost financed each year from current revenues.

This discontinuation procedure was one of the "prices" paid to secure legislative approval of the original bill. Amendments to the act relating to the avoidance of the district by remonstrance petition appears appropriate. For example, a requirement that the petition must be filed by not later than July 1, in order to abolish the district at the end of the current, calendar budget year, would seem reasonable.

Conclusion

At the present time, only a few Kansas cities have business improvement districts, despite its availability. Why aren't there more?

The answers are several, and probably include (1) we don't need it, (2) we don't care, (3) we (businesses) can't afford it, and (4) the procedure is too complicated. The first three reactions are clearly local decisions and heavily influenced by local leadership, both public and private. The fourth response — it's too complicated — is of questionable validity. The decision may be difficult and time consuming — defining the district, determining the services and scheduling the fees — especially given the nature of people who tend to operate businesses, often fiercely independent and occasionally suspicious of others. ("I sweep my sidewalks; why should I pay for Sam's sweeping?") The process of building consensus can take a lot of time. But the procedure — the legal procedure itself — is not complicated. For businesses and cities who do care, particularly about their downtown areas, a BID ought to be considered.

Finally, it should be noted that a BID does not have to be a "big deal" — covering a large area, with substantial services, and fees. One or more small districts, with only a limited program, are possible, and this could lead to larger districts with expanded programs as experience, and success, may justify.

TO: Members of House Local Government Committee
RE: House Bill 2357 Regarding Business Improvement Districts
FROM: Austin Nothern, Chairman, Downtown Topeka Business
Improvement District Planning Committee

Dear Committee Members:

In December, 1986 the Topeka City Council established by ordinance a business improvement district for the downtown Topeka area. This was the result of some ten months of study and work by our Committee and the City Council and Mayor. After working with the statute and actually going through the process of establishing a district, our Committee felt that there should be several changes made to this statute to make the BID concept more practical and useable.

House Bill 2357 would amend the statute to provide that a protest petition to dissolve a business improvement district must be filed within the 45-day period following creation of the district, or within 45 days after the adoption of the ordinance each year which establishes the budget for the following year.

The statute as it currently stands permits a city to create a business improvement district, and annually thereafter to establish its budget and assessment for the following year. However, the BID can be disorganized and dissolved at any time, even in mid-year, by a protest petition signed by over fifty percent of the businesses within the district. This particular feature makes budgeting and planning uncertain and difficult for even one year at a time since there is no way to know when the district might be dissolved.

The services which a business improvement district might wish to provide, such as litter control and cleanup, flowers, landscaping improvements or other beautification, or promotional programs require a period of time to be meaningful or successful. They will generally necessitate the hiring of some personnel or making contractual arrangements with independent contractors to provide these services. There is a difficulty in hiring people or contracting for services if the district can be almost immediately dissolved at any time and the budgeted funds for that year must be returned.

Our Committee felt that while the businesses within a district ought to have the opportunity to dissolve by protest, that opportunity ought to be exercised within a specific period of time following adoption of the ordinance which sets the levy, and if it was not so exercised, then the district should be permitted to operate under its budget for the next calendar year. This would permit operation and planning for one year at a time while still preserving a reasonable right to dissolve.

Attachment 3
2-24-87

House Bill 2357 is designed to accomplish this singular purpose. It provides a 45-day period after initial creation of the district, or after the adoption of an ordinance establishing an annual service fee within which a protest can be filed, and the district will then be dissolved at the end of that calendar year. If such a protest petition is filed within that time period, it will in effect prohibit any levy for the ensuing year, but the district will be permitted to finish out its current calendar year. We believe that these changes will permit orderly planning while still permitting a reasonable means of terminating the district.

Austin Nothern

AN:dmt

BUSINESS IMPROVEMENT DISTRICT
LEVY AND COLLECTION SCHEDULE

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN
				15			25		10		31	

Any Fees Levied in the preceeding year are collected. District program carried out. Funds expended.

Advisory Board Report is prepared. Program, budget, recommended fees. Report due no later than May 15. (K.S.A. 12-1790)

Ordinance levying fees adopted. (K.S.A. 12-1791) Expenditures for District included in City Budget certified to the County no later than August 25.

45 day petition period begins with adoption of ordinance levying fees. The 45 day petition period would expire no later than October 10. (Proposed amendment to K.S.A. 12-1789)

If a valid petition were received, an ordinance would be adopted which would disorganize the District as of the end of the calendar year.

(or)

Fees would be collected for next year.

Attachment 4 2-24-87

STATE OF KANSAS

MARVIN E. SMITH
REPRESENTATIVE, FIFTIETH DISTRICT
SHAWNEE AND JACKSON COUNTIES
123 N E 82ND STREET
TOPEKA, KANSAS 66617-2209



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER EDUCATION
TAXATION
TRANSPORTATION

FEBRUARY 24, 1987

HB 2358
HOUSE LOCAL GOVERNMENT

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

OVER THE YEARS YOU HAVE HEARD WHEN CITIES ANNEX AREAS, AND ESPECIALLY TAKE IN LARGE ACREAGES OF LAND, THAT OWNERS OF FARM LAND HAVE TAXES AND ASSESSMENT FOR BENEFIT DISTRICTS OF SEWERS AND STREETS THAT FAR EXCEED THE INCOME FROM THE LAND. SOME FARMERS ARE VICTIMS OF THESE RAIDS ON THEIR PROPERTY BY THESE PROMOTERS OF ANNEXATION.

HB 2358 PROPOSES TO LIMIT THE ACREAGE ASSESSMENT FOR SEWER DISTRICTS TO NOT EXCEED $3\frac{1}{2}$ ACRES OF AN OWNER'S UNPLATTED PROPERTY.

IT WOULD SEEM THAT SEWER DISTRICT ASSESSMENTS SHOULD REFLECT MORE ON A USERS BASIS. MOST USERS ON SEWER DISTRICTS ARE ON LOTS OF APPROXIMATELY $1/2$ ACRE OR LESS. IT WOULD SEEM $3\frac{1}{2}$ ACRES SHOULD BE THE UPPER LIMIT TO ASSESS SEWER TAXES.

I HOPE YOU WILL HAVE FAVORABLE CONSIDERATION ON HB 2358.

Attachment 5
2-24-87

MARVIN E. SMITH
REPRESENTATIVE, FIFTIETH DISTRICT
SHAWNEE AND JACKSON COUNTIES
123 N E 82ND STREET
TOPEKA, KANSAS 66617-2209



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER EDUCATION
TAXATION
TRANSPORTATION

FEBRUARY 24, 1987

HB 2360
HOUSE LOCAL GOVERNMENT

MR. CHAIRMAN AND MEMBERS OF COMMITTEE:

SOME 4-H CLUB LEADERS AND MEMBERS OF SHAWNEE COUNTY 4-H FAIR CONTACTED SOME MEMBERS OF THE SHAWNEE COUNTY LEGISLATIVE DELEGATION CONCERNING INTRODUCING PROPOSED LEGISLATION FOR PROVIDING MORE STRUCTURE FOR A SHAWNEE COUNTY FAIR BOARD.

SOME RECENT EVENTS THE PAST FEW YEARS, HAVE CAUSED REASON FOR CONCERN.

THE 4-H FAIR BOARD A FEW YEARS AGO PAID THE SUNFLOWER EXPO \$200.00 PER YEAR ANNUAL RENT FOR USING THE FACILITIES FOR APPROXIMATELY A WEEK TO CONDUCT THE FAIR. LAST YEAR THE RENT TO KANSAS EXPO WAS INCREASED TO \$15,000.00 AND THIS YEAR THE RENT PAYMENT IS TO BE \$17,710 FOR THE FAIR.

IT APPEARS SHAWNEE COUNTY NEEDS AN ELECTED FAIR BOARD OF AND BY QUALIFIED ELECTORS TO ADMINISTER THE FAIR.

WE WOULD APPRECIATE YOUR FAVORABLE CONSIDERATION.

*Attachment 6
2-24-87*

February 24, 1987

HB 2360
House Local Government Committee

Mr. Chairman and Members of the Committee:

I am John Reilly, President of the Shawnee County 4-H Fair Board.

The County 4-H Fair Board needs more structure and to be recognized as an organization by the State Board of Agriculture. After consulting with the counsels for the Shawnee County Commission and the State Board of Agriculture and members of Shawnee County Legislative Delegation, we have formulated this piece of legislation that would give us this recognition and better structure. The legislation has been reviewed and unani- mously approved by the County Extension Council and the County 4-H Fair Board. It is the feeling that this will give us a broader base to offer Shawnee County groups an opportunity to participate. We think that this structure and recognition is 30 years overdue.

I would appreciate your favorable consideration.

Attachment 7

2-24-87

February 24, 1987

HB 2360

House Local Government Committee

Mr. Chairman and Members of the Committee:

I am Damon Slyter, Chairman of Shawnee County 4-H Livestock Sale. I would like to present a brief history and overview of fairs in Topeka.

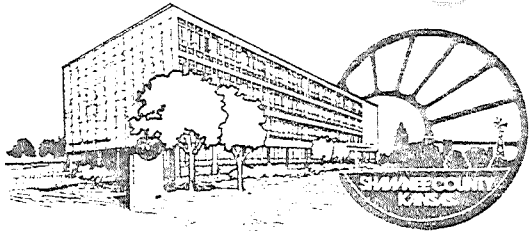
The Kansas Free Fair was the first which I recall attending as a teenager about forty years ago. It was a big event which involved surrounding counties in northeast, north central and east central Kansas. Its name was changed to the Sunflower Expo in the 1970's. Many surrounding county fair blue ribbon winners could show at the Fair/Expo. In addition the Shawnee County 4-H Fair was separated from the Kansas Free Fair with no formal structured organization. It has continued as an annual event about the first week of August.

We believe that with the discontinuance of the regional fair/expo about 4-5 years ago, we need to have a recognized county fair association. Presently in Kansas 79 county fairs are registered with Kansas State Board of Agriculture and 117 fairs are listed with the Kansas Fair Association.

We believe that HB 2360 is an act that will provide the structure needed that so many of you already have in your respective counties. We urge your vote for this bill.

I will be followed by the Chairman of the Shawnee County 4-H Fair.

Attachment 8
2-24-87



Shawnee County
Office of County Counselor

DOUGLAS F. MARTIN
County Counselor
JOSEPH W. ZIMA
Asst. County Counselor

Shawnee County Courthouse
Room 203 • 200 E. 7th
Topeka, Kansas 66603-3922
(913) 295-4042

TESTIMONY OF SHAWNEE COUNTY COUNSELOR DOUGLAS F. MARTIN

February 24, 1987

BEFORE THE HOUSE LOCAL GOVERNMENT COMMITTEE

HOUSE BILL NO. 2360

I was asked separately by Shawnee County Commissioners Hanna and Kingman to appear before this committee today to share some thoughts on House Bill No. 2360. I would like to first state that I am not here to testify either for or against House Bill No. 2360, either on behalf of the Shawnee County Commissioners or in my capacity as Shawnee County Counselor.

Commissioners Hanna and Kingman are committed to continuing their funding of the present 4-H and Grange projects through allocations from the County Budget. The contributions of those organizations are numerous and an important part of our community.

Since we are dealing with Fair Statutes, I thought it would be helpful to review the general laws of Kansas as they relate to County Fairs and Agricultural Societies. Those laws can be found at K.S.A. 2-116 et seq. and K.S.A. 2-301 et seq.

Ignoring the earlier statues on Farmers' Institutes, the primary statutes creating County Fairs and Agricultural Societies are located at K.S.A. 2-125 and the five following statutes. Those laws were written in 1929 and have been modified from time to time by the Legislature. Following those general statutes are a number of special statutes for individual counties throughout Kansas. Each of those statutes seem to have different procedures, and the fair associations created thereunder have differing amounts of authority, power, liability, and responsibilities. In addition there are a set of additional statutes located at K.S.A. 2-301 et seq. that are applicable to counties having a population of over fifty thousand (50,000).

*Attachment 9
2-24-87*

K.S.A. 2-141 specifically provides that the earlier statutes are inapplicable to counties over 50,000 in population that are already levying taxes for fairs under K.S.A. 2-301 through 2-305. The long and short of it is that there appears to be two sets of statutes already providing for fairs in Shawnee County. Is there a conflict? No, Shawnee County apparently has authority to proceed under either of these two statutes, depending on the origination of the particular fair organization. Where does that leave us? With two already existing statutes providing for fair associations in Shawnee County. Each of those statutes come with their own original legislative intent and complex statutory authority, powers, liability, and responsibilities.

My point is that I am not sure any of us really know anymore what these statutes mean in light of the numerous changes we have witnessed through the years, in the evolution of our statutes, case law, and customs.

Whenever this Legislature considers any bill relating to fair associations or agricultural societies, I think it would do well to consider all existing statutes and their need for review and updating.

Whenever bills creating quasi-governmental organizations are being examined, it is important to consider the duties, powers, responsibilities, authority, and liabilities of that quasi-governmental organization and its members. Especially where they are empowered to spend scarce tax dollars. One can hardly resist comparisons to the Public Building Commission which so many citizens of Shawnee County were so ready to condemn last year. The main questions regarding that entity were the extent of its duties, powers, responsibilities, authority, and liabilities. No one seemed to know.

In particular, I have concerns that this bill does not adequately address some concerns that seem ever-present when creating governmental organizations: such as whether or not the directors created by this bill can be personally liable

TESTIMONY BY DOUGLAS F. MARTIN
February 24, 1987
Page Three

for acts and omissions of the fair association; whether the directors are under the immunity of the Kansas Tort Claims Act; and whether the directors are subject to Section 1983 of the Federal Civil Rights Act as acting under the color of State Law, and accordingly subject to personal punitive damages. It is important to note that this fair association and its directors would not be covered by any insurance policy of Shawnee County as we are now presently self-insured on the majority of our risks. These questions are directly related to my earlier questions regarding duties, powers, responsibilities, authority, and liabilities.

With regard to some of the more technical aspects of this bill, Commissioners Kingman and Hanna have expressed concerns that the language of the bill on line 0125, although it uses the word "may", could be construed as setting an upper limit only on the mill levy therein, and thus in effect require the Board of County Commissioners to pass whatever budget is submitted to them. This could be dealt with by simply adding a sentence stating that "The board of county commissioners of Shawnee county are not required to pass any amount or part of the budget submitted by the fair association."

With regard to the election of directors of the association, the elections should be certified to someone in County or State Government. One suggestion would be to require certification of those elected to the Shawnee County Clerk, or the State Board of Agriculture, or possibly both. However, since I am not sure who this Board is responsible to, I cannot recommend the appropriate agency or government to which the election results should be certified. If they are responsible to the Board of County Commissioners, such is not reflected in this bill.

With regard to the surety bond mentioned on line 0092, it is suggested that the amount and sufficiency of the bond should be determined by the governmental authority to which this fair association is answerable. Once such surety

TESTIMONY BY DOUGLAS F. MARTIN
February 24, 1987
Page Four

is filed in the appropriate place, however, it is not clear what the surety is to guarantee, nor the methods by which the supervising governmental authority might review any conduct of the association.

With regard to the certification of the budget on line 0123, this date would be difficult to incorporate in the county budget process. If possible, this date should be moved to an earlier date. A date such as June 30th, which is presently required in K.S.A. 2-610 for the preparation of extension budgets would be more appropriate.

The arbitrary limit of .2 of a mill, although it is understood to be a limit, will be shifting substantially in the future when reappraisal is completed. If the final valuation of Shawnee County increases 3 times, the amount of money that could be raised by this mill levy could increase 3 times. Perhaps there is a provision in the reappraisal statutes that addresses this issue, but in light of the fact that this statute is being passed after reappraisal, combined with the fact that Shawnee County has no limit on its general levy, there is a better solution. Simply state that The Board of County Commissioners are permitted to raise up to \$50,000 with an appropriate and lawful mill levy. Then, the legislature and the commissioners are sure what the upper limit would be on the resulting legislation. Otherwise, the upper limit will be rather flexible, and not much of a limit at all.

It would be important to note here that Shawnee County is spending approximately \$38,000 in this year's budget for the 4-H fair and grange fairs all together.

Another question that should be considered is how will this association interface with the existing Shawnee County Extension Council and the present 4-H Fair Board. Perhaps there are some economies that might be achieved in here somewhere, but I'm not exactly sure where.

Now I want to remind you that neither the Commissioners nor I am here to testify either for or against this bill. However, I can assure you that the

TESTIMONY OF DOULGAS F. MARTIN
February 24, 1987
Page Five

Commissioners are very mindful of the presently existing mill levies throughout Shawnee County and the taxing units therein. While the Shawnee County mill levy for 1986 is today at 33.73, the combined mill levies within the City of Topeka and U.S.D. 501, when added together total 175.96 mills. I can assure you that the Commissioners will be doing their part to hold the line on their portion of the mill levy.

Thank you for your time.

Comments on H.B. 2360 - February 25, 1987

Velma Paris, Shawnee County Commissioner

I am not appearing today in opposition to the testimony brought on behalf of Commissioners Kingman and Hanna; but to add a few comments which may add a slightly different perspective.

First: may I say I am genuinely supportive of the intent of the bill which as I understand it, is to provide a stable base of adequate funding for 4-H and Grange fairs in Shawnee County. Our counselor is right in pointing out that there are a number of existing statutes relating to this topic. It is my understanding, however, that Shawnee County would not be alone in having a specific statute enacted to fit its particular situation.

A few of the issues Mr. Martin has raised are, I believe, open to different interpretation.

1. I believe it is stretching comparisons to compare the proposed Fair Board with the Public Building Commissions. P.B.C.'s are used for the explicit purpose of funding major public projects. That is not at all what the purpose of the proposed Fair Board would be. Nowhere in the proposed statute could I find any mention of the ability to tax, or issue bonds.
2. The concern raised as to interpretation of the permissive nature of the word "may" is not necessary, it seems to me. To add the language suggested by Mr. Martin would be to state the obvious. It would be alright, I suppose, but it would be unnecessary.
3. Relative to the proposed .2 of a mil vs a \$50,000 limit; I think it would be a mistake to tie down in statute any given amount for an on-going program. Specific amounts, or "not-to-exceed" amounts are appropriate for a specific, time-limited project, or a capital expenditure. The Board of County Commissioners can always set a limit on how much we will allocate to any activity; as we do now with the Elderly Mill Levy, or with funding for Human Services.
4. My understanding is that the Extension Council and staff support the direction this bill is proposing.

Shawnee County has had a history of support for 4-H and Grange activities, and I believe we will continue to support them. But, if I understand correctly we are the only one of the 105 Kansas counties without an official, recognized Fair Board. Whether or not this bill, in its current form, is the best way to achieve what is proposed, I am not qualified to say; but I do believe we should work positively with 4-H and the Extension Council to form a body through which their purposes and programs can be served on a regular basis now and on into the future.

Only one last comment: Shawnee County ranks somewhere around 40th in the State in the amount of our own mill levy. I believe the county commissions have been dedicated to keeping our own portion of the total levy as low as possible, even though there have been, and will continue to be disagreement sometimes as to whether it is adequately meeting the needs of our citizens. I think this proposed bill would not alter that commitment to frugal but adequate budgeting.

*Attachment 10
2-24-87*

Franklin Dee Williams
R. R. # 13.
Topeka, Kansas 66604
(913) 272 5392
February 24th, 1987

Committee Chairman
HB 2360
State Capitol Bldg.
Topeka, Kansas 66612

Re: Successors of Chapter 58
Law of 1855 perpetual
succession, purpose:

Dear Chairman and Committee Members:

Please accept this rough draft of an amendment to HB 2360.

Any attempt to advance the bill as stands would be in direct violation of oath and duty and a further circumvention of earlier complained of actions, knowingly or unknowingly.

I only regret that I can not sit down with each legislature and senator and follow through with the documents that are proof of vested rights earlier circumvented, and unconstitutional acts.

It is time now to seek out that which is true and just and put behind us those things that have prevented a protective flow of funds and property.

If you do not know or understand please contact me and continue to contact me until you do understand.

Your time is now and our time is now to restore the vested rights.

Respectfully Submitted,


Franklin Dee Williams

CC: Others

Attachment 11
2-24-87

[Article 2.--PROTECTION OF AGRICULTURAL
SOCIETIES AND FAIRS
TRUSTEES AND FIDUCIARIES]

0016 AN ACT recognizing the status of the Shawnee County
0017 4-H Fair Board as the legitimate successor to the Kansas
0018 Territorial Agricultural Society, known also as the
0019 Kansas State Agriculture Society, the State Board of
0020 Agriculture, Board of Agriculture, the Kansas State Board
0021 of Agriculture, The Kansas Agricultural Association, the
0022 Kansas Agricultural Association, the 4-H Fair Board,
0023 the Shawnee County 4-H Fair Board, the County Fair Board,
0024 Fair Board. respecting its powers, duties, functions and
0025 responsibilities as relating to the sole rights to the
0026 total purpose within the Charter of the aforesaid and an
0027 absolute right to all such purposes including all the
0028 Governmental purposes of promoting Agriculture,
0029 Horticulture, and all Mechanic Arts, domestic manufacture
0030 and productions, and for the control of all Exhibitions,
0031 and to have and to hold exclusive rights to any and all,
0032 privileges, benefits, duties or responsibilities,
0033 appurtenant unto and flowing from contracts, agreements,
0034 treaties, deeds of land, or governmental grants with or
0035 to the aforesaid Associations or Societies.

0036 Whereas: The 1855 Enactment by the Governor and

0037 Legislative Assembly of the Territory of Kansas, Chapter
0038 58 coupled with the 1857 enactment "AN ACT in relation,
0039 to Associations", enacted by the Governor and Legislative
0040 Assembly of the Territory of Kansas, Approved February
0041 17th, 1857, and remains on file in the office of the
0042 Secretary of State of Kansas unamended and unrepealed,
0043 formed July 16, 1857, forming the aforesaid Society and
0044 Association setting forth its composition, powers, duties
0045 and functions continued, unrepealed, upon the Statute
0046 Books of the Territory of Kansas, and that;

0047 Whereas: The aforesaid governmental and private
0048 agencies and persons have continued to deal with the
0049 aforesaid Shawnee County 4-H Fair Board as though it
0050 were designated by statute to continue as successor to
0051 the aforesaid Association and Society, and that;

0052 Whereas: Mrs Pauline L. George, in unision with
0053 Mr. Franklin Dee Williams, and Dr. Richard D. Davis, and
0054 other faithful members of the 4-H Fair Board, directors,
0055 officers and managers, have demonstrated a continued
0056 on-going attempt to protect the Charter and the purpose
0057 for which no other person or group of persons have
0058 demonstrated any such attempt to so protect, and preserve
0059 and seek such good faith remedy;

0060 Whereas: The aforesaid Governmental and private
0061 agencies and persons have continued to deal with the
0062 aforesaid Shawnee County 4-H Fair Board as though it
0063 were designated by statute to continue as successor
0064 to the aforesaid Association and Society, until such
0065 time that an attempt was made by the Board to place
0066 emergency conditions in effect to identify and recover
0067 all such funds and property, of record and the courts
0068 refused or neglected to date to know and understand the
0069 Common Laws protective provisions, and to look beyond
0070 the pleadings and perform the duties expected for any
0071 such proper and appropriate early and swift resolve now
0072 or earlier due;

0073 Therefore: BE IT ENACTED by the Legislature of
0074 the State of Kansas, duly and regularly assembled in
0075 at least defacto session at the Capitol, in the City of
0076 Topeka, and County of Shawnee, of the State of Kansas,
0077 this ____ day of _____, Nineteen Hundred and
0078 Eighty-Seven, that the Shawnee County 4-H Fair Board
0079 is and shall remain the sole and legitimate exclusive
0080 successor with and by that name and style shall have
0081 perpetual succession, as was and has been intended from
0082 CHAPTER 58's 1855 enactment fully setout for all times
0083 and respecting, all powers, duties, functions and

0084 responsibilities, and has and holds the exclusive rights
0085 to any and all Chartered purposes and all such Corporate
0086 promotions of agricultural, mechanical and domestic
0087 manufactures and productions and further exclusive and
0088 sole rights to any exhibitions within the Chartered such
0089 appertaining and flowing from contracts, agreements,
0090 deeds of land or governmental grants with or to any such
0091 Associations or Societies.

0092 II

0093 BE IT FURTHER ENACTED that the officers and members of
0094 the said Boare (Shawnee County 4-H Fair Board) concede,
0095 to nothing, nor should it have been necessary to seek
0096 this had it not been for unfaithful officers and so
0097 called members, causing the result of siphoning off the
0098 funds and or distroying or transferring property, and in
0099 respect to preserving all such Chartered protections
0100 and authority to faithfully serve upon all of the
0101 intended purpose within the powers of the corporation
0102 this unit of directors will be made up of only officers
0103 dedicated to protect its authority and purpose and on
0104 other and that the same grandfathered rithts vested in
0105 Associations prior to statehood remain in full force and
0106 effect for all such exercise earlier had and remains for
0107 full use and exercise now and in the future unimpaired.

0108

III

0109 BE IT FURTHER ENACTED that any such disposition,
0110 acquisition, sale or grant must be effected according
0111 to the by-laws of the said Board, and in the future
0112 said board, will be one and the same (Shawnee County
0113 4-H Fair Board of Directors and for no other), following,
0114 a vote of the majority of the required quorum.

0115

IV

0116 BE IT FURTHER ENACTED that any such disposition, or
0117 any acquisition, sale or grant, according to the
0118 provisions of subsections II and or III above, not
0119 concluded according to the provisions of subsections II
0120 and or II above, shall be held void or voidable
0121 at the will of said earlier officers acting in unision
0122 and good faith, and any and all actions or inactions
0123 to conceal and or abrogate authority and protections
0124 shall constitute misfeasance of office, and be grounds
0125 to institute an action for the same as Official
0126 Misconduct, and recovery equal to three times the amount
0127 of harm or loss after such notice was given and during
0128 such pendency of denied recovery.

0129

V

0130 BE IT FURTHER ENACTED that all laws and parts of laws
0131 in force in the territory, protected by earlier

0132 provisions, are hereby declared to remain in full
0133 force and effect unless such had a reversing
0134 clause or a reserved right to amend at the time of
0135 such enactment or such acceptance of the State
0136 Constitution by Congress, on January 29, 1861, for
0137 which did not suspend or repeal the Act.

0138 VI

0139 BE IT FURTHER ENACTED that all laws and parts of laws
0140 enacted by the Legislature of the State of Kansas, duly
0141 and regularly assembled in session at the Capitol, since
0142 the 29th day of January 1861, that are not obnoxious to
0143 either the laws of or parts of laws of the Territory of
0144 Kansas or the United States Constitution or State enacted
0145 laws, in this order, will remain in full force and effect
0146 for the protective use of the Shawnee County 4-H Fair
0147 Board and all directors, officers, trustees, and any and
0148 all Fiduciaries seeking to protect the Corporate Charter,
0149 and to promote the total or partial intended purpose
0150 or purposes of Society or Associations, and for no other.

0151 VII

0152 BE IT FURTHER ENACTED that all duly organized County
0153 Fair Boards in the other 104 Counties of Kansas at
0154 the time of this enactment, will possess the same
0155 protective rights to their Chartered County purpose
0156 impliedly designed for which to evolve from the rights

0157 protected by the laws in place at statehood and covered
0158 within the United States Constitution and impliedly to
0159 be extended full powers equal to that of the Kansas
0160 Territorial Agricultural Society, and other laws and
0161 parts of laws designed to protect and promote Agricultural
0162 society purposes.

0163 VIII

0164 BE IT FURTHER ENACTED that if legal or equitable
0165 measures become evident to any officer, director,
0166 trustee, or agent or fiduciary, such of the aforesaid
0167 need only to produce by affidavit that one or more
0168 parties of the aforesaid has reason to believe and
0169 that they do believe that the other party or parties
0170 so causing the complaint, the complaining party or
0171 parties or any of the aforesaid may satisfy any fees,
0172 costs, actions, or Bonding that might be required in
0173 order to advance an action for conclusion needs only
0174 to present a request to the Treasurer of the State of
0175 Kansas, and such Treasurer of the State of Kansas shall
0176 forward at once timely amounts equal to such satisfaction
0177 to a just and proper conclusion, but none should be a
0178 duplication of advanced funds earlier provided and for
0179 which presently remains available to the complaining party
0180 or parties for the same such resolve.

0181

IX

0182 BE IT FURTHER ENACTED that this aforesaid legislative
0183 body recognizes that the State of Kansas comprises
0184 but a little over one/half of the area included within
0185 the 1854 Organic Act and earlier Constitution of and
0186 laws prescribed within the limits of the Territory of
0187 Kansas and that at the time of the acceptance of the
0188 State Constitution by Congress, on January 29, 1861,
0189 and Kansas was not seeking nor did the United States
0190 grant to Kansas that area later to be known as the future
0191 and now present State of Colorado, and that had such been
0192 intended, some mentioning of the Western Area would have
0193 surely been had, and such would have become the area
0194 responsibility of the State of Kansas and Kansas would
0195 have been responsible for the Territorial debt and future
0196 legislation, and that the Kansas Territorial Agricultural
0197 Society, possessed Constitutional, protections, and right
0198 grandfathered on January 29, 1861 as to this State of
0199 Kansas and Kansas has not nor do they wish to impare such
0200 nor to deny them either a privilege or provision within
0201 any of the areas for which they were privileged to, nor
0202 would Kansas have a right to such and to legislate for
0203 Colorado, any more than that of Colorado to legislate to
0204 Kansas, and this body so enacts this knowing that the
0205 sole protective ordances must evolve from the Chartered
0206 perpetual succession interests as intended when granted
0207 and enforcment for such by them upon by-law police power.

0208 X
0209 BE IT FURTHER ENACTED that the officers and members of
0210 the Shawnee County 4-H Fair Board has continued to
0211 share in levied funding with the Auburn Grange Fair
0212 and jointly provided fairs officers and supertendints
0213 for special fairs in achieving their separtate and
0214 collectively provided Chartered purposes, and this
0215 enactment is not now or in the future intended to
0216 hamper or prevent such furtherence of provisions in
0217 either Boards actions.

0218 XI
0219 BE IT FURTHER ENCACTED that the Kansas Legislature has
0220 enacted laws providing for General and Special
0221 provisions for maintenance and repair of buildings of
0222 and for Fair Purposes and Funding and all such funds
0223 appropriated and remain unspent or nisdirected are
0224 and remain to be redirected for such improvements,
0225 and none other.

0226 XII
0227 BE IT FURTHER ENACTED that the Kansas legislature has
0228 enacted laws providing for extention work in Kansas
0229 and Kansas Counties, and through these laws have so
0230 implied and acknowledged that this LABOR as funded
0231 was to aid the Agricultural Societies and 4-H, and
0232 for its sole purpose the giving of instruction and

0233 practical demonstrations in Agriculture, Marketing, Home
0234 Economics, 4-H Club and Youth Work, Community and
0235 Resource Development, to all persons in the County and
0236 the imparting to such persons of information on said
0237 subjects through practical demonstrations, meetings,
0238 publications, or otherwise, and denying extention council
0239 absolutely any right to engage in commercial or other
0240 private enterprises, and absolutely denying any such
0241 legislative programs or other activities not authorized
0242 by such acts, earlier or later.

0243

XIII

0244 BE IT FURTHER ENACTED that laws enacted by the Kansas
0245 legislature for which are to be inforced by the Counties
0246 Attorneys' or the District Attorneys' or the Kansas
0247 Attornies Generals' for which may be neglected or refused
0248 for what ever reason or for which earlier police powers
0249 were granted the Successors of the Agriculture Societies
0250 will be served first by the Counties Attorneys, or the
0251 District Attorneys' or the Kansas Attornies Generals' for
0252 resolve, but such descretion will be at the descretion is
0253 and shall remain with the Societies Officers and when the
0254 Officers are not in good faith all such powers and further
0255 authority and descretion will ly with the faithful members
0256 decretion and none other.

0257

IVX

0258 BE IT FURTHER ENACTED this act shall be part of and
0259 supplemental to the Kansas criminal code.

0260

VX

0261 BE IT FURTHER ENACTED this act shall take effect and be in
0262 force from and after its publication in the statute books.

WASHINGTON OFFICE
1431 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-6601



KANSAS OFFICE
SUITE 280
444 SOUTHEAST QUINCY STREET
TOPEKA, KS 66683
(913) 295-2811

Congress of the United States
House of Representatives

JIM SLATTERY
SECOND DISTRICT, KANSAS

October 15, 1986

Mr. Frank Williams
Route 13
Topeka, Kansas 66604

Dear Frank,

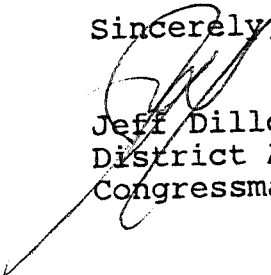
This is in response to your letter of September 27th and the many inquiries you have made to Congressman Slattery's office.

Based on the evaluation and follow up work I have made on your case, I regret to inform you that this office cannot proceed with your request at this time. The allegations raised by your letter fall under the jurisdiction of the Kansas Attorney General's office not the U.S. Department of Justice.

I spoke with Brenda Braden of the Kansas Attorney General's office concerning your request. Brenda assured me that they would make every effort to investigate your allegations, and I it is my hope they will do so.

I appreciate the time and effort you have put into your case. Because of the jurisdiction issue, I am closing your file at this time.

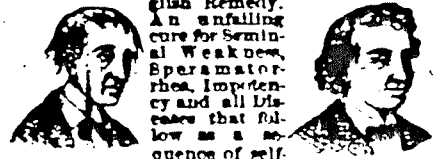
Sincerely,


Jeff Dillon
District Aide
Congressman JIM SLATTERY

cc: Jim Slattery
Brenda Braden

GRAY'S SPECIFIC MEDICINE.

TRADE MARK The Great Remedy. TRADE MARK
An unailing cure for Seminal Weakness, Spermatocyst, Impotence and all Diseases that follow as a consequence of self-abuse, or Loss AFTER TAKING.



of Memory, Universal Lassitude, Pain in the Back, Discharge of Urine, Premature Old Age, and many other diseases that lead to Insanity or Consumption and a Premature Grave.
Full particulars in our pamphlet, which we desire to send free by mail to every one. The Specific Medicine is sold by all druggists at 50¢ per package, or six packages for \$3.00, or will be sent free by mail on receipt of the money, by address to THE GRAY MEDICINE CO., 100 Broadway, New York, N.Y.

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THE GREAT CURE
FOR
RHEUMATISM

As it is for all diseases of the KIDNEYS, LIVER AND BOWELS.
It cleanses the system of the acid poison that causes the dreadful suffering which only the victims of Rheumatism can realize.
THOUSANDS OF CASES of the worst forms of this terrible disease have been quickly relieved, in a short time **PERFECTLY CURED.**

KIDNEY-WORT
has had wonderful success, and an immense sale in every part of the Country. In hundreds of cases it has cured where all else had failed. It is mild, but efficient, CERTAIN IN ITS ACTION, but harmless in all cases.
It cleanses, strengthens and gives new life to all the important organs of the body. The natural action of the Kidneys is restored. The Liver is cleansed of all disease, and the Bowels move freely and healthfully. In this way the worst diseases are eradicated from the system.
As it has been proved by thousands that

KIDNEY-WORT
is the most effectual remedy for cleansing the system of all morbid secretions. It should be used in every household as a
SPRING MEDICINE.
Always cures BILIOUSNESS, CONSTIPATION, PILES and all FEMALE Diseases.
Is put up in Dry Vegetable Form, in tin and one package of the best quality of medicine.
Also in Liquid Form, very Concentrated for the convenience of the traveler, and is prepared in the most scientific manner.
GET IT OF YOUR DRUGGIST. PRICE, 50¢.
WELLS, RICHARDSON & Co., Prop'rs, 100 Broadway, New York, N.Y.

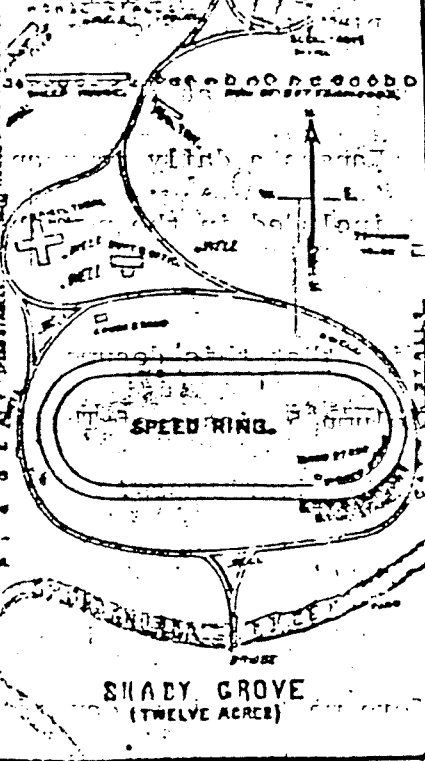
KIDNEY-WORT
July 1st, 1894, No. 100 Broadway, N.Y.
A Fortune I Agents will send you 100 copies of the Century new best selling medicine, "Kidney Balm" for ailing and all ailments. Indefatigable Effort and a perfect Cure. The F. T. Colled Wire Bell Co., 100th Ave. N.Y. August 1st, 1894

LOVELY COMPLEXIONS POSSIBLE TO ALL.

What Nature denies to many Art secures to all. Hagan's Magnolia Balm dispels every blemish, overcomes Redness, Freckles, Sallowiness, Roughness, Tan, Eruptions and

KANSAS

STATE FAIR GROUNDS TOPEKA



STATE FAIR.

ALTOGETHER the biggest thing to be seen this year west of Chicago and St. Louis will be the Kansas State Fair at Topeka, September 12th and 17th, inclusive

BEYOND all question the display of agricultural and mechanical products will be superior to any ever before seen in the West, not excepting all previous fairs at Kansas City.

CONCERNING the matter of premiums the list shows a grand total of \$30,000. This sum has been actually provided, and all premiums will be promptly paid

DON'T forget that in addition to the above premiums prizes to the amount of \$7,500 have been offered and will be paid.

EXCEEDING all other items of interest in connection with the speed ring will be the Curtis-Plano twenty-mile race for a sum of \$10,000.

FROM all parts of the United States are to come representative stock men, bringing with them their best specimens of their noblest horses, cattle, sheep and swine.

WITNESSED by the splendid results of the splendid display at the Centennial Exposition in 184, the Archibson, Topeka & Kansas Fair proposes to far outdo here what

THE MERCHANTS' TELEPHONE AND TELEGRAPH CO.

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Organized for the purpose of building Telephone Exchanges, Private Lines, Branch Lines, and Speaking Tube Lines.

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IMPORTERS and DEALERS

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Telephone & Telegraph Supplies

Correspondence solicited
PAUL W. BOSSART, Supt.
may2d&wim KANSAS CITY, MISSOURI.

RESCUED FROM DEATH.

The following statement of William J. Coughlin, of Somerville, Mass., is so remarkable that we beg to ask for it the attention of our readers. He says: "In the Fall of 1876 I was taken with a violent bleeding of the lungs, followed by a severe cough. I soon began to lose my appetite and flesh. I was so weak at one time that I could not leave my bed. In the Summer of 1877 I was admitted to the City hospital. While there the doctors said I had a hole in my lung, as big as a half dollar. I expended over a hundred dollars in doctors and medicines. I was so far gone at one time a report went around that I was dead. I gave up hope, but a friend told me of DR. WM. HALL'S BALSAM FOR THE LUNGS. I laughed at my friends, thinking that my case was incurable, but I got a bottle to satisfy them, when to my surprise and gratification, I commenced to feel better. My hope, once dead, began to revive, and to-day I feel in better spirits than I have the past three years. "I write this hoping you will publish it, so that every one afflicted with Diseased Lungs will be induced to take DR. WM. HALL'S BALSAM FOR THE LUNGS. I have positively said of them since my cure, and I am entirely satisfied with the results."

APPENDIX
EXHIBIT
33.

ROWLEY BROS. Wholesale Agents
may2d&wlv

NATIONAL LOAN AND TRUST COMPANY

Henry The BEST Cuts, Brushes, Tetter, Chaps and all kinds of Pimples and Pimples need to give case or more get HENRY all others are perfect. Pr may2d&wlv



Dyspepsia
Heartburn
unpleasant eating or
It is not Mandrake are among cases of the Give It a

For sale in July 1894

UN

Best of
October 1894
No. 127

EX

Eleven
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On the other hand, while it is not possible wholly to avoid conflict between the separate departments of government,²⁰ the true meaning, intent, and purpose of the constitutional provision as to the separation of powers should be observed.^{20.5} One department should not so act as to control or embarrass another in the discharge of respective functions,²¹ and the constitution should be expounded to blend the departments no more than it affirmatively requires.²² No deviation from the constitutional requirement will be tolerated which impairs the essential integrity of one of the branches of the government,^{22.5} and the whole power of one department may not be exercised by the same hands which possess the whole power of either of the

other departments.^{22.17}

Although each department has, without any express grant, the inherent right to accomplish all objects naturally within its orbit, not expressly precluded by the existence of a similar power elsewhere or the express limitations in the constitution, the grant of general powers to one department constitutes of itself an implied exclusion of all other departments from the exercise of such power, irrespective of any express provision to that effect, unless the power is conferred on such other departments in express terms,²⁶ or unless the exercise thereof becomes necessary and appropriate to the discharge of other constitutional duties and functions expressly committed to it,²⁷ but the pro-

Tex.—Clark v. Briscoe Irr. Co., Civ. App., 200 S.W.2d 674.

20. Or.—Corpus Juris cited in Putnam v. Norblad, 293 P. 1 193 Or. 214.

W.Va.—State v. Huber, 40 S.1 129 W.Va. 198, 168 A.L.R. 81 12 C.J. p 804 note 29.

Ordering an election to be ordinarily an administrative function or duty which may by statute properly made subject to the orders of either of the three departments of the government when no provision of the constitution is violated. Fla.—Williams v. Keyes, 186 So. 135 Fla. 769.

20.5 W.Va.—State v. Huber, 40 S.1 129 W.Va. 198, 168 A. 808.

21. Ind.—State ex rel. Kostas Johnson, 69 N.E.2d 592, 224 540, 168 A.L.R. 1118.

Ia.—Durrett Hardware & Furnit Co. v. City of Monroe, 5 So.2d 199 Ia. 329, 140 A.L.R. 433.

S.C.—State ex rel. Brown v. Bates, S.E.2d 246, 198 S.C. 430.

W.Va.—State ex rel. Richardson County Court of Kanawha County, 78 S.E.2d 569.

Wis.—State v. Cannon, 240 N.W. 206 Wis. 374.

22. U.S.—Myers v. U. S. Ct. Cl., S.Ct. 21, 272 U.S. 52, 71 L.Ed. 16

The judiciary should be slow to approve any action which even has the semblance of permitting one branch of the state government to act toward another in a manner contrary to the provisions of the constitution.

Kan.—State ex rel. Williams v. Robb, 183 P.2d 223, 163 Kan. 502.

Convenience The constitutional provision for distinct separation of departments does not contemplate a blending of authority, and overlapping must not be permitted in response to convenience.

Ark.—Oates v. Rogers, 144 S.W.2d 1 Mich 457, 201 Ark. 335.
"Inherent power" of a department of government is essentially a protective power and strictly speaking is that which is necessary to its existence and due functioning in exercise of powers granted.
Mo.—Clark v. Austin, 101 S.W.2d 977, 310 Mo. 467.

When power is not expressly vested in any of the three departments, it must be exercised, when occasion demands, by the department to which it naturally belongs.
Neb.—In re Integration of Nebraska State Bar Ass'n, 275 N.W. 265.

The creation constituting delegation of the exercise of a department for constitutes of itself a delegation to that department of all the judicial power of the sovereignty except as otherwise limited by the constitution itself.
N.Y.—Alexander v. Bennett, 60 N.Y. 201.

Pa.—Greenough v. Greenough, 11 Pa. 489, 51 Am.D. 567.

Wis.—Van Slyke v. Trempealeau County Farmers' Mut. F. Ins. Co., 39 Wis. 390, 20 Am.R. 60.

24. Ala.—Fox v. McDonald, 13 So. 416, 101 Ala. 51, 46 Am.S.R. 98, 21 L.R.A. 629.

Orn Tp. v. Dall, 334 Mich. 673—

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CHAPTER 58.

An act to incorporate the Territorial Agricultural Society.

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| § 1. Kansas Territorial Agricultural Society; powers of; by-laws, &c.
2. Powers of the corporation.
3. Annual meetings, when held.
4. Under the control of certain officers; term of office.
5. Names of officers for first year; duties.
6. Who are members. | § 7. Society to determine in what manner awards may be made, &c.
8. Duty of recording secretary.
9. Of compensation.
10. Powers of the society.
11. May establish branch societies.
12. President may appoint branch, when.
13. In case of vacancy, who shall fill it. |
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Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas, as follows :

Kansas Territorial
Agricultural
Society.

SECTION 1. There is hereby established and incorporated a society to be known and designated by the name and style of the "Kansas Territorial Agricultural Society," and by that name and style shall have perpetual succession, and by that name shall have power to contract and be contracted with, to sue and be sued, to plead and be impleaded in all courts, answer and be answered unto, defend and be defended in all courts and places, and in all matters whatsoever; and shall in like manner have authority to have and use a common seal, and the same at pleasure to change and alter; and may also make, ordain and establish and put in execution such by-laws, ordinances, rules and regulations as shall be proper and necessary for the good government of said society, and the prudent and efficient management of its affairs; *provided*, that said by-laws, ordinances, rules and regulations shall not be contrary to the provisions of this charter, nor to the laws of this territory or the laws and constitution of the United States.

Powers of.

By-laws.

Powers of the
corporation.

SEC. 2. In addition to the powers above enumerated, the society shall, by its name and style aforesaid, have power to purchase and hold any quantity of land not exceeding twenty acres, and may sell and dispose of the same at pleasure; the said real estate shall be held by said society for the sole purpose of erecting enclosures, buildings and other improvements calculated and designed for the meeting of the society, and for an exhibition of various breeds of horses, cattle, mules and other stock, and of agricultural, mechanical and domestic manufactures and productions, and for no other purpose; and if from any cause said society shall be dissolved or fail to meet within a period of five consecutive years, then the real estate held by it, together with all buildings and appurtenances belonging to said real estate,

shall be sold as lands are now sold under execution, and the proceeds deposited in the territorial treasury, subject to the control of the legislative assembly.

SEC. 3. An annual meeting of the members of the society shall be held on the first Monday in October, annually, at such place as the said society shall determine upon at its first meeting.

Annual meeting, when held.

SEC. 4. The fiscal, presidential, and concerns of the society shall be under the control and management of a president and one vice president for each judicial district in the territory, a secretary, corresponding secretary and a treasurer, to be styled a board of directors, who shall be elected at the annual meeting of the members of the society; they shall hold their offices for one year and until their successors are duly chosen, and shall have power to fill all vacancies that may occur in said board.

Under the control of president and vice president of each district.

Term of office.

SEC. 5. For the purpose of carrying into effect this act, A. M. Coffey, of the county of Lykins, shall be the first president; William M. Tebbs, of the county of Jefferson, Joel Hyatt, of the county of Leavenworth, and Thomas Stinson, of the county of Shawnee, shall be the first vice presidents; Samuel A. Williams, of the county of Bourbon, shall be the first secretary; James Finley shall be the first corresponding secretary, and John W. Forman, of the county of Doniphan, shall be the first treasurer; who shall call the first meeting of the society, at the seat of government of the territory, at such time as they may agree upon, and at such first meeting any three members of the board shall constitute a quorum to do business, and each member of such board is hereby authorized to solicit and receive subscriptions to said society as hereinafter specified.

Names of officers, for first year.

Duties.

SEC. 6. The members of this society shall consist of such persons as shall pay annually, into the treasury thereof, the sum of one dollar; and such persons shall be members only for the year for which they shall have thus paid the amount aforesaid; *provided*, that at any annual meeting the society may, by a majority vote, increase the amount necessary for membership to any sum not exceeding six dollars per year.

Who are members.

SEC. 7. The members of the society, by a majority of the votes present, shall determine in what amount and on what subjects the funds of the society shall be awarded as premiums at the exhibition succeeding their meeting, of which notice shall be given in some newspaper printed in or nearest their place of meeting, and in such other papers as advisable.

Society to determine in what manner awards shall be made, &c.

SEC. 8. It shall be the duty of the recording secretary to deposit annually in the office of auditor of public accounts a statement of the annual expenditures of the society.

Duty of recording secretary.

Of compensation. SEC. 9. No compensation shall be allowed to any officer of this society for his services, except to the corresponding and recording secretaries, nor to them until the board of directors shall so order, except for actual expenses paid out.

Powers of society. SEC. 10. The society may, by a majority of the voters at any annual meeting, prescribe the duties of and require bond and security from any of its officers.

May establish branches. SEC. 11. This society, at any annual meeting, may establish a branch society in any county in the territory, which, when organized by appointment of a president, three directors, recording secretary, corresponding secretary and treasurer, shall possess all the powers and privileges of this society.

President may appoint a branch. SEC. 12. The president of this society may, at any time in vacation of the meetings, appoint such branch society, and appoint the officers thereof, until the first annual meeting of this society. This society shall not forfeit this charter on account of not meeting as provided in this act; provided, the same shall meet and organize within twelve years from this date.

In case of vacancy, who may appoint. SEC. 13. In case of a failure or inability to serve of any of the persons mentioned in the fifth section of this act, the governor is hereby authorized to appoint some suitable person or persons to fill the vacancy or vacancies thus occasioned; and the persons herein named, as those above mentioned, shall not be required [to pay] their subscription before they shall have authority to act in the organization of this society.

This act to take effect and be in force from and after its passage.

CHAPTER 59.

An act to incorporate the Leavenworth Jail Association

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| § 1. Names of corporators. | § 3. May open books for stock, &c. |
| 2. Capital stock of company. | 4. To hold meetings; how often. |

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas, as follows:

Names of corporators.

SECTION 1. Samuel D. Pitcher, J. Harvey Day, Isaac Vanvegton, Lewis N. Rees, Westcott D. Mitchler, and their associates and successors, are hereby created a body corporate by the name and style of the Leavenworth Jail Association, and by that name shall have perpetual succession, and may sue and be sued, implead and be impleaded, in any court having competent jurisdic-