

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Kent Glasscock at 1:30 p.m.. on January 30, 1996 in Room 521-S of the Capitol.

All members were present except: Representative Ray Luthi (present first part of meeting, but left early)

Committee staff present: Mike Heim, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Fulva Seufert, Committee Secretary

Conferees appearing before the committee: Representative Greg Packer
Bob Newton, Newton Development Corp.
Warren Schmidgall, Exec. Vice-President Hills Pet Foods
Don Moler, General Counsel, League of Kansas Municipalities
Ernie Mosher, City of Topeka
Whitney Damron, J.D., Representing K.C., Kansas
Tim Etzel, Resident of Sherwood

Others attending: See attached list

Chairperson Glasscock announced that the minutes of the January 25, 1996 meeting had been distributed. Representative Mays requested a correction to reflect his question about bond indebtedness be included in relation to SB 464. Representative Mays moved that the minutes be approved as corrected, and Representative Becker seconded. Motion passed.

Chairperson Glasscock opened the public hearing on :

HB 2370: **An Act concerning cities; relating to the incorporation thereof; amending K.S.A. 15-123 and repealing the existing section.**

Chairperson Glasscock introduced Representative Greg Packer who addressed the committee as a proponent for HB 2370. He said that HB 2370 allows a majority of County Commissioners to allow an area to incorporate. He felt that since it only takes a simple majority to annex, this same standard should be set up for incorporation. (Attachment 1.)

Representative Becker stated that when he was a mayor, he had a lot of problems. He asked if it would set up a situation where you could have an island in the middle of a city. Representative Packer replied that the elected officials still have the final say, and he did not think this would be a problem.

Chairperson Glasscock next recognized Mr. Bob Newton, Newton Development Company, who spoke to the committee as an individual in favor of HB 2370. He pointed out that he believes the law should be equal in weight for all citizens of the county and city. He said that there are no other decisions or acts that require a unanimous vote by a county commission. (Attachment 2.)

The Chairperson introduced Mr. Tom Corcoran, resident in the affected area, who only stood at his seat and said that he totally agreed with Mr. Newton's testimony.

Mr. Tim Etzel, resident in the affected area, also stood and announced from his seat that he had not intended to speak, but he wanted the committee to know that years ago when the Sherwood District had contacted the city to be possibly annexed that the city was not interested. The residents at Sherwood worked together using their own resources repairing their roads and later worked to find other means to make necessary improvements. He said that their roads and services are now second to none and that they do not want to become part of the city.

Chairperson Glasscock next recognized Don Moler, General Counsel for League of Kansas Municipalities, who spoke as an opponent to HB 2370. He distributed two handouts, but called the committee's attention

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT, Room 521-S Statehouse, at 1:30 p.m. on January 30, 1996.

first to the Research/Information Bulletin which reported that in "1963 the Kansas Legislature adopted a new law governing the incorporation of cities which establishes factors to be considered by the board of county commissioners in determining the advisability of ordering an incorporation on petition of the residents of the area. Under K.S.A. 15-123, a unanimous vote of the board of county commissioners is necessary for incorporation of an area within five miles of an existing city. Since the law took effect in 1963, only six new cities have been formed." (Attachment 3.) Mr. Moler's second handout pointed out that "the existing statute does not **preclude** a new city being located within a five mile radius of an existing city, but simply requires consensus on the county commission before that can occur." He told the committee that he felt the Kansas Legislature made a good decision in 1963, and he urged the committee not to fix something that isn't broken. (Attachment 4.)

Representative Glasscock, Chairperson, recognized Ernest A. Mosher, City of Topeka, who spoke in opposition to **HB 2370**. He stressed that the process of incorporation is much more comprehensive than **HB 2370** would indicate because the entire act covers several sections of the statutes. He had the statute book open and reminded the committee that the incorporation of cities is an important matter of statewide concern. He said that the City of Topeka believes that the unanimous vote is sound public policy and should be continued. (Attachment 5.)

After hearing all the conferees, Chairperson Glasscock closed the public hearing on **HB 2370**.

Chairperson Glasscock recognized Whitney B. Damron, Attorney for the City of Kansas City, Kansas, who requested introduction of a bill amending K.S.A. 10-106a to allow bond underwriters to submit a surety bond in lieu of a certified or cashier's check when bidding on municipal bonds. Representative Mays moved to allow the introduction of a bill amending K.S.A. 10-106a, and Representative Toplikar seconded. Motion passed. (Attachment 6.)

Representative Tomlinson, Chairperson of the Subcommittee #1, introduced the following bills: State preemption of cigarette tax and malt beverages, amend outdated statutes on records or film, changes of grade on roads which are outmoded, cleaning and oiling of streets, sale of park land subject to protest petition, limitation of offering rewards (bring them up-to-date), conveyance of real estate back in 1945. Representative Miller made the motion to allow these bills for introduction, and Representative Welshimer seconded. Motion passed.

Chairperson Glasscock welcomed Karrie Meyers who is serving as an intern for Mike Heim in the Research Department.

Chairperson Glasscock announced open discussion for

SB 464: **An Act concerning Kansas City, Kansas, and Wyandotte County; relating to consolidation; authorizing the governor to appoint a consolidation study commission; relating to the powers and duties of the commission.**

Chairperson Glasscock recognized Chris McKenzie, League of Kansas Municipalities, who presented information in answer to Representative Mays' bonded indebtedness question. Mr. McKenzie reported that after consulting with the bond counsel for city/county, the combined bonded indebtedness subject to new 30% lid was approximately 24% of the capacity provided by 30% limitation.

Representative Mays asked about the amount of the bonded indebtedness of the City of Topeka. Representative Mays made the motion to amend **SB 464** on page 4, line 36 by striking city-county and by inserting county. Representative Becker seconded and motion passed.

Representative Sloan moved to add the following balloons in **SB 464**: On page 1, line 38, after No elected, insert or appointed; page 1, lines 39, 40, and 41, take out nor any person appointed to fill a vacancy in an elected office of such cities or county and insert or instrumentality of such cities or county; page 1, line 43, insert or instrumentality of such cities or county after the word county; page 2, line 1, insert Any person who is a member of the household of or relative of a person ineligible for appointment to the commission pursuant to this section also shall be ineligible for appointment to the commission. For the purposes of this subsection, an official of the cities and county designated in this subsection shall include all persons appointed by the governing bodies of such cities or county and all persons appointed to an office of such cities or county by a state officer; page 5, remove lines 30, 31, 32, 33, and 34, and insert For the purposes of section 1 of article 5 of the constitution of the State of Kansas, the "voting area" for the governing body of the consolidated city-county shall include all the territory within Wyandotte county; page 6, after line 27, add "New Sec. 7 and Sec. 8 amending K.S.A. 19-205. (See Attachment 7.) Representative Miller seconded.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT, Room 521-S Statehouse, at 1:30 p.m. on January 30, 1996.

Representative Grant made a substitute motion which would add an automatic trigger if there is not a presidential primary where the Governor would automatically appoint a commission. Representative Ott seconded. During the discussion, Representative Sloan opposed because he thinks it is important to hold the election. A division vote was called with 9 yeas and 8 nays. Motion passed.

Representative Sloan moved that the balloon on page 1, line 36 and line 38 be added, and Representative Miller seconded. A division vote was called with 7 yeas and 8 nays. Motion failed.

On page 5, line 30, Representative Sloan moved this be amended, and Representative Welshimer seconded. Motion passed.

Representative Sloan moved for the New Section 7a on page 6, and Representative Welshimer seconded. Motion passed. (See Attachment 7.)

Representative Pettey moved for an amendment that would require as a separate question whether governing body elections should be partisan or nonpartisan. She said that Wyandotte County has been involved in a transition of government and there is a feeling of lack of listening to the public. Representative Tomlinson expressed concern as to how this would affect the automatic trigger. Representative Welshimer seconded.

Representative Mays offered a substitute motion to insert on page 1, line 21, language that no more than 3 members of the commission shall be of the same political party, and Representative Becker seconded. Discussion followed about more options only complicate the issue, and that the question that goes on the ballot should be as clean as possible. Representative Pettey said that she sees these two motions as being very different. She said the issue was that people do not like voting for people-at-large. Representative Welshimer stated that she did not like the substitute motion, but Representative Toplikar and Representative Tomlinson both said they liked it. A vote was taken and the motion passed.

Representative Pettey made a motion in two parts. Part A was for the electorate to vote if they wanted to have a partisan vote at election time. Seconded by Representative Tomlinson. A division vote was called with 7 yeas and 8 nays. Motion failed (Attachment 8.)

Representative Pettey moved Part B of her motion to require as a separate question whether the governing body should be elected at-large or from districts. Representative Tomlinson repeated that he believes this motion clutters up the ballot. Representative Henderson said that he is aware of at least one instance when the at-large candidate caused some problems. Motion was seconded by Representative Welshimer. A division vote was taken with 7 yeas and 8 nays. Motion defeated.

Representative Henderson expressed concern about the local people not having a say on the choosing of their representation, and also the second part which deals with who will incur the cost of an election, if held. Representative Henderson moved to change who appoints the commission to three by the Governor, one by the city, and one by the County, and no more than two of the Governor's appointees could be from the same party. Representative Welshimer seconded. Representative Pettey made a substitute motion that the number two be changed to three and no more than one from the city and one from the county. Representative Mays commented that the number should not be restrictive and that the local board should be able to appoint anybody. (Attachment 9.)

Representative Grant made a substitute motion that SB 464 be moved out of committee as amended and marked favorable for passage. Representative Mays seconded. There was a division vote of 8 yeas and 5 nays. Motion passed. (Attachment 10.)

The meeting adjourned at 3:30 p.m.

The next meeting is scheduled for February 1, 1996.

LOCAL GOVERNMENT COMMITTEE GUEST LIST

DATE: Tuesday, January 30, 1996

NAME	REPRESENTING
Whitney Damron	City of KC, KS
Don Molar	League of KS Municipalities
Julius Kovach	Wy City
Bud Riggins	intern
Robert Newton	CITIZEN
Thomas Cocoran	CITIZEN
Warren Schmidy	Citizen
Erin Kasher	City of Overland Park
Chris McKenzie	League of KS Municipalities

STATE OF KANSAS

GREG A. PACKER
REPRESENTATIVE, FIFTY-FIRST DISTRICT
7200 WATTLING CT.
TOPEKA, KANSAS 66614
(913) 478-0502
OFFICE:
STATE CAPITOL, 112-S
TOPEKA, KANSAS 66612-1504
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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE CHAIR: BUSINESS, COMMERCE, AND LABOR
ECONOMIC DEVELOPMENT
JOINT COMMITTEE ON ARTS AND CULTURAL
RESOURCES
SELECT COMMITTEE—TELECOMMUNICATIONS

Thank you Mr. Chairman and Members of the Committee for the opportunity to address the committee on HB 2370.

This bill allows a majority of County Commissioners to allow an area to incorporate. As it only takes a simple majority to annex, I feel this standard should be set-up for incorporation. I as a State Representative and a citizen of Shawee County think that this would stand to benefit the State as well as my home district.

I urge you to pass this bill out favorably as written. Thank again.

Greg Packer, 51st Dist.

House Local Government
1-30-96
Attachment 1

Legislation Affecting Incorporation for Small Communities and Townships

As the law stands today it takes a unanimous decision by the county commission to incorporate, but only a simple majority to annex a township into the city. There is no equality in this existing law.

The law should be equal in weight for all citizens of the county and city. Even though incorporation is decided by county commissioners, it is sometimes obvious that they grant the wishes of the city powers, i.e. Topeka. In this way, commissioners are giving greater consideration to a power base that leaves county residents helpless.

Common sense dictates that a majority vote should decide either way on both incorporation and annexation. The law as it stands is archaic and onerous. It would be nearly impossible to get three county commissioners to approve of incorporation. The commissioners know this and want to keep the status quo. If there were five county commissioners as there are in some counties, the option to incorporate would be absolutely impossible. We know the possibility to pass incorporation with a super unanimous vote exists but is highly improbable. At least one commissioner is usually influenced to vote a hidden agenda. The hidden agenda is usually under the influence of the large municipality, therefore obstructing incorporation wishes of a small township.

There are no other decisions or acts that requires a unanimous vote by a county commission. **NONE**. This law as it stands is in favor of the few who had arbitrary powers in the past to thwart incorporation. In a democracy majority rule is most always law. Why not in this instance? It is time to bring the law of simple majority to allow township incorporation into the 1990's.

Thank you for your consideration.

House Local Government
1-30-96
Attachment 2

RESEARCH / INFORMATION BULLETIN

League of Kansas Municipalities / 112 West Seventh Street / Topeka, Kansas 66603 / 913-354-9565

Vol. XIII, No. 567

June 3, 1991

Incorporation of Cities in Kansas

The trend of new city incorporations in Kansas has declined sharply during the past 25 years. Since January 1, 1966, there have been only five newly formed cities. This is the lowest number for any 25-year period during the history of the state.

The number of Kansas cities, now totaling 627, has increased by a net of four since 1966. While five new cities were formed, the city of Wellsford was disincorporated in 1975.

The slow down in the rate of municipal incorporations in recent years may be contrasted with the incorporation of 28 new cities in the 15-year period of 1946 through 1960. Several of the cities formed during this period were located in the rapidly expanding Johnson county area.

In 1963, the Kansas legislature adopted a new law governing the incorporation of cities which establishes factors to be considered by the board of county commissioners in determining the advisability of ordering an incorporation on petition of the residents of the area. Under K.S.A. 15-123, a unanimous vote of the board of county commissioners is necessary for incorporation of an area within five miles of an existing city. Since the law took effect in 1963, only six new cities have been formed.

The decline in the growth rate in new Kansas cities in recent years has been accompanied by a very slow trend in consolidations or dissolutions. Since 1960, only two cities have been formally disincorporated, with one consolidation. Some legally existing cities are not active public service providers; the 1990 state-certified census reports the existence of 12 cities with a population of less than 50. Following is the list of incorporations since 1930.

Cities Incorporated Since 1930

<u>City</u>	<u>County⁽¹⁾</u>	<u>Date</u>	<u>Population⁽²⁾</u>
Timken	Rush	June 16, 1930	
Radium	Stafford	January 1, 1934	
Leona	Doniphan	April 1934	
Damar	Rooks	February 26, 1935	
Bogue	Graham	March 21, 1935	
Schoenchen	Ellis	September 1935	
Liebenthal	Rush	August 5, 1935	
Eastborough	Sedgwick	June 1, 1935	
Hollenberg	Washington	July 14, 1937	
North Newton	Harvey	September 20, 1938	
Susank	Barton	May 7, 1940	
Gorham	Russell	April 10, 1951	
Zurich	Rooks	August 20, 1946	
Overbrook	Osage	March 8, 1948	386

Maize	Phillips	October 7, 1947	127
Leawood	Johnson	November 30, 1948	900
Fairway	Johnson	May 21, 1949	1,695
Westwood Hills	Johnson	June 6, 1949	449
Westwood	Johnson	June 7, 1949	1,541
Mission Hills	Johnson	June 10, 1949	544
Mission Woods Park	Johnson Gove	July 22, 1949	175
Merriam	Johnson	February 13, 1950	215
Prairie Village	Johnson	October 23, 1950	1,600
Countryside	Johnson	February 19, 1951	1,500
Mission	Johnson	July 2, 1951	358
Roeland Park	Johnson	July 2, 1951	1,852
Haysville	Johnson	July 2, 1951	1,373
Goessel	Sedgwick	July 3, 1951	102
Willowbrook	Marion	March 10, 1952	270
Raymond	Reno	July 10, 1952	50
Rose Hill	Rice	December 6, 1954	213
Provence Village ⁽³⁾	Butler	February 7, 1955	250
Andover	Johnson	September 19, 1955 ⁽³⁾	—
Kechi	Butler	February 4, 1957	166
Lansing	Sedgwick	April 29, 1957	204
Bentley	Leavenworth	June 22, 1959	1,102
Rush enter	Sedgwick	November 12, 1959	225
Cassoday	Rush	December 7, 1959	265
Overland Park	Butler	April 4, 1960	125
Holcomb	Johnson	May 20, 1960	28,085
Burdett	Finney	May 1, 1961	280
Smolan	Pawnee	November 28, 1961	359
Auburn	Saline	April 30, 1962	284
Grandview Plaza	Shawnee	June 27, 1963	235
Basehor	Geary	March 4, 1963	450
Ozawkie	Leavenworth	June 11, 1965	641
New Strawn	Jefferson	September 15, 1967	86
Lake Quivira	Coffey	May 18, 1970	164
Park City	Johnson/Wyandotte	May 11, 1971	959
Bel Aire	Sedgwick	November 24, 1979	3,700
	Sedgwick	November 19, 1980	2,166

(1) County or counties in which city is located

(2) Approximate population at time of incorporation, where known

(3) Consolidated with Olathe on February 4, 1960

City Consolidations

There have been at least 10 consolidations of cities in Kansas since 1867. The following information is from records of the League of Kansas Municipalities.

- 1867--Eugene consolidated with Topeka (April 11)
- 1886--Armourdale consolidated with Kansas City (By state law)
- 1886--Wyandotte consolidated with Kansas City (By state law)
- 1887--South Topeka consolidated with Topeka (May 10)
- 1899--Potwin Place consolidated with Topeka (April 13)
- 1907--Empire City consolidated with Galena (July 10)
- 1910--Argentine consolidated with Kansas City (January 1; state law)
- 1922--Rosedale consolidated with Kansas City

126--Oakland consolidated with Topeka (February 28; state law)

1360--Provence Village consolidated with Olathe (February 1)

During the past half century, there have been at least four city consolidation proposals which have failed, all in Johnson county. Voters of Mission on September 26, 1953 rejected a proposal to merge with the city of Roeland Park, the vote being 116 yes and 608 no. Voters in Countryside twice turned down merger proposals with the city of Mission. On June 2, 1959 the vote was 57 yes and 140 no. At the August 9, 1960 election the vote was 58 yes and 158 no. At an election held on January 23, 1973, a referendum proposal to consolidate the cities of Westwood and Westwood Hills was defeated.

City Dissolutions

Complete information is not available as to the number of Kansas cities which have been disincorporated or dissolved (excludes consolidations). Part of the uncertainty results from lack of information as to whether some communities which called themselves a "city," were ever actually and legally incorporated. For example, the territorial legislatures before statehood provided for the incorporation of numerous cities, towns and villages, many of which no longer exist and some of which probably never existed as an operating city. While hundreds of so-called "towns" once existed in Kansas, it appears that many of them that disappeared since statehood were probably never legally incorporated as an official governmental unit.

Records of the League of Kansas Municipalities indicate there was at one time an Army City located in Geary county. In 1961 the city of Irving was disincorporated as a result of the area being inundated by the Tuttle Creek dam reservoir. In 1975, the city of Wellsford, located in Kiowa county, was dissolved; Wellsford was incorporated in 1917 and had a population of 17 when disincorporated in 1975.

Dormant Cities

During the history of Kansas, some cities became dormant and were later reactivated. For example, the city of Hugoton was dormant for a number of years and reorganized in 1911. The city of Wallace in Wallace county was reorganized in 1931 after being dormant for 33 years. In 1957, Richfield was reactivated after being dormant for over 60 years. In 1964, Roseland became an active city.

The Chanute Area

A situation in the Chanute area of Neosho county shows some of the dynamics of city formation in earlier days. The city of New Chicago was incorporated in 1870 and in the same year the city of Tioga was also incorporated. Voters in New Chicago dissolved the city with the following result: "For a city"--one; "against a city"--91. The city of Tioga was also dissolved and this entry appears in the 1911 Revised and Compiled Ordinances of the city of Chanute, page viii: "The above officers held their position until the 9th day of December 1872, when the town of Tioga was dissolved as a corporated body by an election held on said date for the purpose of uniting with New Chicago to be incorporated as the city of Chanute." Chanute was incorporated as a city of the third class in January 1873, and encompassed the former cities of Tioga and New Chicago.

City Incorporation by Five-Year Periods

The list below presents the approximate number of city incorporation in each five-year period, and the cumulative totals, since 1855. The figures are approximate up to 1930 since it is based on the incorporation dates of existing cities. Accurate information as to legally incorporated cities in earlier days is unavailable.

Period	Number	Cumulative Total
1855-61	16	16
1861-65	1	17
1866-70	24	41
1871-75	48	89
1876-80	43	132
1881-85	75	207
1886-90	111	318
1981-95	11	329
1896-1900	18	347
1901-05	56	403
1906-10	64	467
1911-15	30	497
1916-20	29	526
1921-25	24	550
1926-30	28	**580
1931-35	6	586
1936-40	4	590
1941-45	1	591
1946-50	11	601
1951-55	10	612
1956-60	7	*618
1961-65	6	*623
1966-70	2	625
1971-75	1	*625
1976-80	0	625
1981-85	2	627
1986-91	0	627

**Net number of active cities at end of 1930

*Net of consolidations and disincorporations

The list above excludes Piper in Wyandotte county, incorporated by action of the board of county commissioners on October 1, 1971 but ruled invalid by the Kansas Supreme Court on January 26, 1974 (213 Kan. 777). Also excluded are three cities which were reactivated since 1930 (see Dormant Cities, above). The 1951-55 total includes Provence Village, incorporated in 1955, but recognizes its consolidation with Olathe in 1960.



**League of
Kansas
Municipalities**

**Legal Department
300 S.W. 8th
Topeka, Kansas 66603
Phone: (913) 354-9565/ Fax: (913) 354-4186**

To: House Local Government Committee

From: Don Moler, General Counsel

Re: Opposition to HB 2370

Date: January 30, 1996

First I would like to thank the committee for allowing the League to appear today in opposition to HB 2370. Specifically, HB 2370 removes the requirement that the county commissioners vote unanimously to allow the incorporation of a city when the proposed new city is located within five miles of an existing city. This has the effect of changing the requirement from a unanimous vote of the county commission to a simple majority. We believe this to be a very bad idea and a poor public policy choice.

Quite clearly there was a reason that the unanimous portion of the statute was implemented, that being that there should be consensus on a county commission before allowing a new city to locate within five miles of an existing city. The problems with allowing a new city to locate near an existing city would include planning, city services, zoning, and allowing for the natural growth of an existing city. The committee should note that the existing statute does not **preclude** a new city being located within a five mile radius of an existing city, but simply requires consensus on the county commission before that can occur.

I would note that the trend toward city incorporations can be directly linked to the requirement for a unanimous vote within the five mile radius and would direct the committee to the attached League Research Information Bulletin No. 567, dated June 3, 1991. As the Bulletin notes, in the 18 year period 1946-1963, 33 new cities were incorporated. This can be contrasted with the period 1963-1996, a span of 33 years, in which only six new cities have been incorporated. We would suggest that the Kansas legislature made a good choice in 1963 and would urge the committee not to fix something that isn't broken. Thank you for allowing the League to appear today on this issue.

House Local Government
1-30-96
Attachment 4



CITY OF TOPEKA

Harry "Butch" Felker, Mayor
215 E. 7th Street Room 352
Topeka, Kansas 66603
Phone 913-295-3895
Fax Number 913-295-3850

TO: House Committee on Local Government
FROM: Ernest A. Mosher, City of Topeka
DATE: January 30, 1996
RE: HB 2370, Incorporation of Cities

My name is Ernie Mosher, resident and occasional lobbyist for the City of Topeka, appearing in opposition to HB 2370, relating to the incorporation of new cities adjacent to existing cities. As members of this Committee know, K.S.A. 15-123 now provides, as it has since 1963, that the incorporation of a new city within five miles of an existing city requires the unanimous approval of the board of county commissioners. The bill would remove this requirement, thus permitting the same simple majority vote -- 2 out of 3, 3 out of 5, or 4 out of 7 -- as is now required for incorporation of cities more than five miles from another incorporated city. A policy resolution of the Topeka City Council specifically opposes HB 2370 and similar bills which would encourage the incorporation of new cities adjacent to existing cities.

Research by the League of Kansas Municipalities shows the longstanding public policy objective of the Kansas Legislature to restrict the proliferation of cities has been achieved. There were 28 new cities incorporated during the 15-year period from 1946 through 1960. In contrast, only six new cities have been incorporated in the 35-year period from 1961 through 1995.

I would call to your attention that the process of incorporation is much more comprehensive than the bill before you would indicate. The entire act covers several sections of the statutes, indicating legislative intent that the incorporation of cities is an important matter of statewide concern.

I would also remind you that the county in Kansas, in the past and in the present, has played a dual role, as both an agency of state government and as a unit of local government. The county home rule statutes, with its many listed exceptions of subjects where county boards may not exercise their statutory powers of home rule, demonstrates this dual role. I suggest to you that the county board is essentially exercising state powers when it carries out its statutory duties in the incorporation process. Indeed, the city home rule provision of the Kansas Constitution specifically delegates to the Legislature the power to determine the manner by which cities are incorporated. In this instance, the Legislature has, as a matter of state public policy, declared that the proliferation of new cities is to be discouraged, and is to be permitted by the county board only upon certain findings, and only by a unanimous vote of the county board if the area is within five miles of an existing city. The City of Topeka believes that this is sound public policy and should be continued.

House Local Government
1-30-96
Attachment 5

WHITNEY B. DAMRON, P.A.
COMMERCE BANK BUILDING
100 EAST NINTH STREET – SECOND FLOOR
TOPEKA, KANSAS 66612-1213
(913) 354-1354 ♦ 232-3344 (FAX)

January 30, 1996

The Honorable Kent Glasscock
and Members of the House Local Government Committee:

Good afternoon Chairman Glasscock and Members of the House Local Government Committee,

My name is Whitney Damron and I appear before you today on behalf of the City of Kansas City, Kansas to request introduction of a bill amending K.S.A. 10-106 (a) to allow bond underwriters to submit a surety bond in lieu of a certified or cashier's check when bidding on municipal bonds.

Attached to this statement is a copy of the Legislative Activity Policy Statement adopted by the City of Kansas City, Kansas in support of this proposal. We believe the option of a security bond will provide more flexibility to bond underwriters, yet maintain the integrity of the bidding system.

On behalf of the City of Kansas City, Kansas, we look forward to the opportunity to present comments in support of this matter to you at a later date.

Thank you for the opportunity to discuss this request with you this afternoon.

House Local Government
1-30-96
Attachment 6

**CITY OF KANSAS CITY, KANSAS
1996 LEGISLATIVE POLICY STATEMENT**

Support Revision to Municipal Bond Statutes

With the advent of a faster-paced and more volatile municipal market, providing underwriters with options for setting up their good faith deposit makes it easier for underwriters to bid and may also be more cost effective for them. The process of physically cutting a check and shipping it to the municipality before the sale takes several days' lead time. However, municipal underwriters and investors are often now making their buying decision only hours before sale time to take advantage of pricing opportunities or sudden changes in market supply. In that event, the inability to secure a good faith check in time for the sale will typically be the only thing preventing the underwriter from submitting a bid. In addition, unsuccessful bids represent unearned income during the time the unreturned checks remain outstanding.

Offering a surety bond service in lieu of a good faith check makes it easier for an underwriter to bid and will cost them only the nominal fee charged by the insurance company offering the service. If a surety bond is used for a sale, it should be from an insurance company licensed to issue such a bond in the State of Kansas and it still must be submitted to the issuer or its Financial Advisor prior to the opening of bids. The cost of this service is borne by the underwriter and neither the issuer nor the Financial Advisor is charged for the use of the service. The City of Kansas City, Kansas supports proposed changes to the bond statute allowing the option to obtain a surety bond in lieu of a good faith check.

SENATE BILL No. 464

By Committee on Local Government

1-16

10 AN ACT concerning Kansas City, Kansas, and Wyandotte county; relating
11 to consolidation; authorizing the governor to appoint a consolidation
12 study commission; relating to the powers and duties of the commission.
13

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

15 Section 1. As used in the act:

16 (a) "Commission" means the consolidation study commission of Kan-
17 sas City, Kansas, and Wyandotte county.

18 (b) "City" means Kansas City, Kansas.

19 (c) "County" means Wyandotte county.

20 Sec. 2. (a) The following question shall be submitted to the qualified
21 electors of Wyandotte county for their approval or rejection:

22 "Shall a consolidation study commission be appointed by the governor
23 to study the consolidation of Kansas City, Kansas, and Wyandotte county
24 or the consolidation of certain offices, functions, services and operations
25 thereof?"

26 (b) The question shall be submitted at the primary election held on
27 the first Tuesday in April, 1996. Such election shall be called and held by
28 the county election officer in the manner provided by the general bond
29 law.

30 Sec. 3. (a) If a majority of the electors voting at the election vote in
31 favor of the question submitted pursuant to section 2, the governor shall
32 appoint a five-member consolidation study commission. Such appoint-
33 ments shall be made by May 15, 1996. Members of the commission shall
34 include, but not be limited to, persons with experience in accounting,
35 business management, municipal finance, law, education, political science
36 or public administration. ~~No elected or appointed official of the city or
37 county or employee of the city or county shall serve on the commission.~~

38 ~~No elected official of the cities of Bonner Springs, Edwardsville,
39 Lake Quivira or Kansas City or Wyandotte county, nor any person
40 appointed to fill a vacancy in an elected office of such cities or
41 county, shall serve on the commission. No full-time paid employee
42 of the cities of Bonner Springs, Edwardsville, Lake Quivira or Kan-
43 sas City or Wyandotte county shall serve on the commission. Mem-~~

[] or appointed

[] or instrumentality of such cities or county

[] , or instrumentality of such cities or county,

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1 bers of the commission shall be residents of Wyandotte county.

2 (b) Members of the commission shall be paid compensation, subsis-
3 tence allowances, mileage and other expenses as provided by K.S.A. 75-
4 3223, and amendments thereto.

5 (c) The governor shall appoint an executive director of the commis-
6 sion. The executive director shall receive compensation established by
7 the governor, within the limits of appropriations for that purpose. The
8 executive director shall employ other staff and may contract with con-
9 sultants, as the executive director deems necessary to carry out the func-
10 tions of the commission. Staff employed by the executive director shall
11 receive compensation established by the executive director and approved
12 by the governor, within the limits of appropriations for that purpose.

13 (d) Within 30 days following the appointment of all members of the
14 commission, the commission shall meet and organize by the election of
15 a chairperson and vice-chairperson and other officers deemed necessary.
16 The commission may adopt rules governing the conduct of its meetings.

17 Sec. 4. (a) The commission shall prepare and adopt a plan addressing
18 the consolidation of the city and county or certain city and county offices,
19 functions, services and operations. The commission shall conduct such
20 studies and investigations as it deems appropriate to complete its work.
21 Such studies and investigations shall include, but not be limited to:

22 (1) Studies of the efficiency and effectiveness of the administrative
23 operations of the city and county.

24 (2) Studies of the costs and benefits of consolidating the city and
25 county or certain city and county offices, functions, services and opera-
26 tions.

27 (b) The commission shall hold public hearings for the purpose of
28 receiving information and materials which will aid in the drafting of the
29 plan.

30 (c) For the purposes of performing its studies and investigations, the
31 commission or its executive director may administer oaths and affirma-
32 tions, subpoena witnesses, compel their attendance, take evidence, re-
33 quire the production of any books, papers, correspondence, memoranda,
34 agreements or other documents or records which the commission or ex-
35 ecutive director deems relevant or material to its studies and investigation.

36 (d) On or before November 29, 1996, the commission shall prepare
37 and adopt a preliminary plan addressing the consolidation of the city and
38 county or certain city and county offices, functions, services and opera-
39 tions it deems advisable. Copies of the preliminary plan shall be filed with
40 the county election officer, city clerk and each public library within the
41 county and shall be available to members of the public for inspection
42 upon request. The commission shall hold at least one public hearing to
43 obtain citizen views concerning the preliminary plan. Notice of such hear-

Any person who is a member of the household of
or relative of a person ineligible for appointment
to the commission pursuant to this section also
shall be ineligible for appointment to the commission.

For the purposes of this subsection, an official of the
cities and county designated in this subsection shall include all
persons appointed by the governing bodies of such cities or
county and all persons appointed to an office of such cities or
county by a state officer.

1 ing or *hearings* shall be published at least once in a newspaper of general
2 circulation within the county. Following the public hearings on the pre-
3 liminary plan, the commission may adopt, or modify and adopt, the pre-
4 liminary plan as the final plan.

5 (e) On or before January 13, 1997, the commission shall submit its
6 final plan to the governor and legislature. The final plan shall include the
7 full text and an explanation of the proposed plan, and comments deemed
8 desirable by the commission, a written opinion by an attorney admitted
9 to practice law in the state of Kansas and retained by the executive di-
10 rector for such purpose that the proposed plan is not in conflict with the
11 constitution or the laws of the state, and any minority reports. Copies of
12 the final plan shall be filed with the county election officer, city clerk and
13 each public library within the county and shall be available to members
14 of the public for inspection upon request. The commission shall continue
15 in existence at least 90 days following the submission of the final plan
16 pursuant to this subsection.

17 (f) Unless the legislature, by concurrent resolution adopted on or
18 before February 12, 1997, the 30th day of the 1997 regular session, rejects
19 such plan, the plan shall be submitted to the qualified electors of the
20 county at the school district general election on April 1, 1997. Such elec-
21 tion shall be called and held by the county election officer in the manner
22 provided by the general bond law. A summary of the final plan shall be
23 prepared by the commission and shall be published once each week for
24 two consecutive weeks in a newspaper of general circulation within the
25 county. If a majority of the electors voting on the plan vote in favor
26 thereof, the consolidation plan shall be implemented in the manner pro-
27 vided by the plan. If a majority of the electors vote against such plan, the
28 proposed consolidation plan shall not be implemented.

29 If the commission submits a final plan which does not recommend the
30 consolidation of the city and county or certain city and county offices,
31 functions, services and operations, the provisions of this subsection shall
32 not apply.

33 Sec. 5. (a) Any plan submitted by the commission shall provide for
34 the exercise of powers of local legislation and administration not incon-
35 sistent with the constitution or other laws of this state.

36 (b) If the commission submits a plan providing for the consolidation
37 of certain city and county offices, functions, services and operations, the
38 plan shall:

39 (1) Include a description of the form, structure, functions, powers
40 and officers and the duties of such officers recommended in the plan.

41 (2) Provide for the method of amendment of the plan.

42 (3) Authorize the appointment of, or elimination of elective officials
43 and offices.

1 (4) Specify the effective date of the consolidation.
 2 (5) Include other provisions determined necessary by the commis-
 3 sion.

4 (c) If the plan provides for the consolidation of the city and county,
 5 in addition to the requirements of subsection (b) the plan shall:

6 (1) Fix the boundaries of the governing body's election districts, pro-
 7 vide a method for changing the boundaries from time-to-time, any at-
 8 large positions on the governing body, fix the number, term and initial
 9 compensation of the governing body of the consolidated city-county and
 10 the method of election.

11 (2) *Determine whether elections of the governing body of the*
 12 *consolidated city-county shall be partisan or nonpartisan elections*
 13 *and the time at which such elections shall be held.*

14 (3) Determine the distribution of legislative and administrative
 15 duties of the *consolidated* city-county officials, provide for consolidation
 16 or expansion of services as necessary, authorize the appointment of a
 17 *consolidated* city-county administrator or a city-county manager, if
 18 deemed advisable, and prescribe the general structure of the *consoli-*
 19 *dated* city-county government

20 (4) Provide for the official name of the consolidated city-county.

21 (5) Provide for the transfer or other disposition of property and
 22 other rights, claims and assets of the county and city.

23 Sec 6 (a) If the voters approve a plan which provides for the con-
 24 solidation of the city and county, such consolidated city-county shall be
 25 subject to the provisions of this section.

26 (b) Wyandotte county is hereby designated an urban area, as author-
 27 ized under the provisions of section 17 of article 2 of the constitution of
 28 the state of Kansas, for the purpose of granting to such county and urban
 29 area powers of local government and consolidation of local government.

30 (c) The consolidated city-county shall be subject to the cash-basis and
 31 budget laws of the state of Kansas

32 (d) Except as provided in subsection (e), and in any other statute
 33 which specifically exempts bonds from the statutory limitations on bonded
 34 indebtedness, the limitation on bonded indebtedness of a consolidated
 35 city-county under this act shall be 30% of the assessed value of all tangible
 36 taxable property within such city-county on the preceding August 25.

37 (e) The following shall not be included in computing the total bonded
 38 indebtedness of the ~~consolidated city-county~~ for the purposes of deter-
 39 mining the limitations on bonded indebtedness:

40 (1) Bonds issued for the purpose of refunding outstanding debt, in-
 41 cluding outstanding bonds and matured coupons thereof, or judgments
 42 thereon.

43 (2) Bonds issued pursuant to the provisions of article 46 of chapter

*Line 36
 Strik city-county
 and insect
 county*

1 19 of the Kansas Statutes Annotated, and amendments thereto.

2 (3) Bonds issued for the purpose of financing the construction or
3 remodeling of a courthouse, jail or law enforcement center facility, which
4 bonds are payable from the proceeds of a retailers' sales tax.

5 (4) Bonds issued for the purpose of acquiring, enlarging, extending
6 or improving any storm or sanitary sewer system.

7 (5) Bonds issued for the purpose of acquiring, enlarging, extending
8 or improving any municipal utility.

9 (6) Bonds issued to pay the cost of improvements to intersections of
10 streets and alleys or that portion of any street immediately in front of city
11 or school district property.

12 (f) Any bonded indebtedness and interest thereon incurred by the
13 city or county prior to consolidation shall remain an obligation of the
14 property subject to taxation for the payment thereof prior to such con-
15 solidation.

16 (g) Upon the effective date of the consolidation of the city and county,
17 any retailers' sales tax levied by the city or county in accordance with
18 K.S.A. 12-187 *et seq.*, and amendment thereto, prior to such date shall
19 remain in full force and effect, except that part of the rate attributable to
20 the former city shall not apply to retail sales in the cities of Bonner
21 Springs, Edwardsville and Lake Quivira.

22 (h) Upon the effective date of the consolidation of the city and
23 county, the territory of the consolidated city-county shall include:

24 (1) All of the territory of the county for purposes of exercising the
25 powers, duties and functions of a county.

26 (2) All of the territory of the county, except the territory of the cities
27 of Bonner Springs, Edwardsville and Lake Quivira *and the unincor-*
28 *porated area of the county*, for purposes of exercising the powers, du-
29 ties and functions of a city.

30 (i) Any city annexation proceedings which are pending shall cease on
31 the date on which the results of the election held in 1997 are certified
32 and no further annexation of territory in the county shall be allowed fol-
33 lowing consolidation. ~~The consolidated city-county may not annex terri-~~
34 ~~tory located outside the county.~~ ✓

35 (j) Except for the consolidated city-county and unless otherwise pro-
36 vided by law, other political subdivisions of the county shall not be af-
37 fected by consolidation of the city and county. Such other political sub-
38 divisions shall continue in existence and operation.

39 (k) Unless otherwise provided by law, the consolidated city-county
40 shall be eligible for the distribution of any funds from the state and federal
41 government as if no consolidation had occurred. Except as provided in
42 this subsection, the population and assessed valuation of the territory of
43 the consolidated city-county shall be considered its population and as-

For the purposes of section 1 of article 5 of the constitution of the state of Kansas, the "voting area" for the governing body of the consolidated city-county shall include all the territory within Wyandotte county.

1 sessed valuation for purposes of the distribution of moneys from the state
2 or federal government.

3 (l) The consolidated city-county shall be a county. The governing
4 body of the consolidated city-county shall be considered county commis-
5 sioners for the purposes of section 2 of article 4 of the constitution of the
6 state of Kansas and shall have all the powers, functions and duties of a
7 county and may exercise home rule powers in the manner and subject to
8 the limitations provided by K.S.A. 19-101a, and amendments thereto, and
9 other laws of this state.

10 The governing body of the consolidated city-county shall be responsible
11 for any duties or functions imposed by the constitution of the state of
12 Kansas and other laws of this state upon any county office abolished by
13 the consolidation plan. Such duties may be delegated by the governing
14 body or as provided in the consolidation plan.

15 (m) The consolidated city-county shall be a city of the first class. The
16 governing body of the consolidated city-county shall have all the powers,
17 functions and duties of a city *of the first class* and may exercise home
18 rule powers in the manner and subject to the limitations provided by
19 article 12 of section 5 of the constitution of the state of Kansas and other
20 laws of this state.

21 (n) The governing body of the consolidated city-county may create
22 special service districts within the city-county and may levy taxes for serv-
23 ices provided in such districts.

24 (o) Changes in the form of government approved by the voters in
25 accordance with the consolidation plan are hereby declared to be legis-
26 lative matters and subject to initiative and referendum in accordance with
27 K.S.A. 12-3013 *et seq.*, and amendments thereto. ↙

28 Sec. 7. This act shall take effect and be in force from and after its
29 publication in the Kansas register.

"New Sec. 7. (a) The governing body of a consolidated city-county may not annex any land located outside the county.

(b) The governing body of a consolidated city-county may not initiate annexation procedures of land located within the county, but may annex land upon petition of the owners of any such land.

Sec. 8. K.S.A. 19-205 is hereby amended to read as follows:
19-205. Except as provided by sections 5 and 6, no person holding any state, county, township or city office shall be eligible to the office of county commissioner in any county in this state.

Nothing in this section shall prohibit the appointment of any county commissioner to any state board, committee, council, commission or similar body which is established pursuant to statutory authority, so long as any county commissioner so appointed is not entitled to receive any pay, compensation, subsistence, mileage or expenses for serving on such body other than that which is provided by law to be paid in accordance with the provisions of K.S.A. 75-3223, and amendments thereto.

Sec. 9. K.S.A. 19-205 is hereby repealed.";

PROPOSED AMENDMENTS

SENATE BILL NO. 464 AS AMENDED BY SENATE COMMITTEE

Be amended:

On page 3, following line 35, by inserting a new subsection as follows:

"(b) Any plan submitted by the commission shall include a copy of the question or questions to be submitted to the qualified electors of Wyandotte county at the election held on April 1, 1997. If the plan affects the election of the governing body of the city or county, the plan shall include, as separate questions (1) whether the elections of the governing body shall be partisan or nonpartisan and (2) whether the governing body shall be elected from districts or at-large.";

Also on page 3, in line 36, by striking "(b)" and inserting "(c)";

On page 4, in line 4, by striking "(c)" and inserting "(d)"; in line 6, by striking "Fix" and inserting "Subject to the provisions of subsection (b), fix"; in line 11, by striking "Determine" and inserting "Subject to the provisions of subsection (b), determine";

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PROPOSED AMENDMENTS TO SENATE BILL NO. 464

AS AMENDED BY SENATE COMMITTEE

Be amended:

On page 1, in line 22, by striking "by the governor"; in line 31, by striking "the governor shall"; in line 32, by striking all before the period and inserting "a five-member consolidated study commission shall be appointed as follows: The governor shall appoint three members to such commission, no more than two of which shall be from the same political party; the governing body of the city shall appoint one member; and the board of county commissioners shall appoint one member.";

On page 2, following line 16, by inserting:

"(e) All costs of the commission incurred pursuant to this act shall be paid by the state, subject to limits of appropriations for that purpose.";

And the bill be passed as amended.

Chairperson

Henderson

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PROPOSED AMENDMENTS
S.B. No. 464
(as amended by Senate Committee)

On page 1, in line 20, by striking "The" and inserting "Except as provided by subsection (c), the "; following line 29, by inserting:

Rep Grant
"(c) If the presidential preference primary is not held in 1996, the provisions of this section shall not apply.";

Also on page 1, in line 31, following the comma, by inserting "or if there is no presidential preference primary held in 1996,"; in line 38, following "elected" by inserting "or appointed"; in line 39, by striking all after the comma; by striking all in 40; in line 41, by striking "county" and inserting "or instrumentality of such cities or county"; in line 43, following "county by inserting", or instrumentality of such cities or county,";

On page 2, following line 1, by inserting a new paragraph:

"For the purposes of this subsection, an official of the cities and county designated in this subsection shall include all persons appointed by the governing bodies of such cities or county and all persons appointed to an office of such cities or county by a state officer.";

On page 4, by striking all in lines 11,12 and 13; in line 14, by striking "(3)" and inserting "(2)"