

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Representative Gerry Ray at 3:30 P.M. on February 19, 2002 in Room 519-S of the Capitol.

All members were present except: Rep. Palmer - excused
Rep. Campbell - excused

Committee staff present: Mike Heim, Research Dept.
Theresa Kiernan, Revisor
Kay Dick, Committee Secretary

Conferees appearing before the committee: Rep. Tanner
Sen. Jackson
Rep. Hermes
Richard Maginot, Soldier Township
Don Moler, League of Kansas Municipalities
Mike Taylor, City of Wichita
Bart Budetti, City of Overland Park
Ned Webb, Kansas Depart. of Commerce & Housing
Charles Ranson, Pres., Kansas, Inc.
Joseph Ledbetter, Topeka resident
Mary Martin Buhl, Johnson County

Others attending: See Attached List

The Chair opened the hearing on: **HB 2760 - concerning historic property**

Chair Ray recognized Rep. Tanner as a proponent giving testimony in support of **HB 2760**, which he authored. He explained that the bill will place public facilities on an even ground with privately held facilities that are being considered for listing on a registry of historic places. The public owner must grant consent for this to happen. There is no such rule in the public sector. The public interest should be served and public ownership be acknowledge. (Attachment #1)

The Chair closed the hearing on **HB 2760**

Hearing opened on: **HB 2655 - concerning cities; relating to procedure for incorporation**

The first proponent, Senator Jackson testified in support of **HB 2655** stating that this bill resulted from hearings this past summer, conducted by the Joint Committee on Economic Development, chaired by Rep. Mason. He attached a report of the Joint Committee. (Attachment #3). He emphasize that community economic development can result from this bill because local decisions can be made to move forward with improvements to infrastructure, rather than waiting for annexation. (Attachment #2)

Rep. Hermes appeared before the committee as a proponent in support of incorporation of cities within five miles of another city (KSA 15-123). She agreed with the joint committee recommendation that the board of county commissioners should decide all city incorporation decisions by a simple majority vote. (Attachment #4)

Richard Maginot, Soldier Township Business Administrator, gave testimony as a proponent on **HB 2655**, on behalf of Soldier Township, supporting a change that would allow incorporation by a simple majority vote of the County Commission. He stated that there has been discussion by various citizen groups of possible incorporation of a new city to allow for a governing choice other than annexation into Topeka. (Attachment #5)

Questions from the committee were answered by the Senator, Representative and Mr. Maginot on why

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they supported **HB 2655**.

The chair asked for testimonies from the opponents.

Don Moler, Executive Director of the League of Kansas Municipalities, appeared as a opponent on behalf of the LKM and other member cities to express concern over the proposed modification to **KSA 15-123** concerning the voting procedures on a county commission when considering the incorporation of a city in Kansas. With strong emphasis he stated, "The issue we are discussing today involves a requirement found in the statute which provides that when a territory is proposed to be incorporated as a city which lies within five miles of an existing city the territory shall not be incorporated except by the unanimous vote of the commissioners. (Attachment #6)

Mike Taylor, City of Wichita, appeared before the committee as an opponent on **HB 2655**. Mr. Taylor brought attention to the mistake of the **HB #** that appears on his testimony. He did correct it verbally for the committee to read, **HB 2655** instead of 2665. He testified that the support behind the bills is primarily an isolated local situation in Shawnee County, which local elected officials have been unable to resolve, and it is not uncommon for the Legislature to be brought in as referees or arbiters in local disputes when one party is unhappy with the outcome. This burdens the legislative system with political disagreements which should stay local. He went on to say that this bill takes the responsibility and accountability of managing local affairs away from local officials and citizens. He emphasized that this unnecessary and poor public policy. (Attachment #7)

J. Bart Budetti, Assistant City Attorney, testified on behalf of the City of Overland Park against **HB 2655**. Mr. Budetti made comments that the unanimous vote requirement ensures that incorporation near existing cities will occur only when it will benefit the entire community. "The choice facing us is whether to allow existing cities to expand according to sound principles of planned growth or to stunt them by allowing fringe territories to incorporate and suffocate their growth. Any bill that would remove the unanimity requirement would be contrary to sound principles of urban planning and the long-standing policy of this stat to prevent a proliferation of cities. (Attachment #8)

Joseph Ledbetter, Topeka resident, testified in opposition to **HB 2655**. He commented, "There is nothing broken here, there is nothing to fix." He also stated "that this is a grab for County-wide sales tax revenue by those proposed entities. This legislation would cast a dark and foreboding pall over the future of first class cities." He felt there is no compelling reason to change the law - no urgent requirement to meet a need of public good - just a drastic change in public policy. (Attachment #9)

Ned Webb, Community Development Division Director for the Kansas Department of Commerce & Housing, on behalf of the Department, requested an amendment to **HB 2655**. They asked to consider striking lines 16 to 21. He made note that annexation is a local issue that should be determined and settled at the local level, that the county commission is in the best position to determine what is in the best interest of the people of that community. (Attachment #10)

Through invitation of the Chair, as a neutral presenter, Charles R. Ranson, President of Kansas, Inc. wanted to make it clear, that Kansas, Inc. neither supports nor opposes **HB 2655**. His purpose was to provide the committee with a perspective that has been developed during the past several years. He stated, "today, Kansas is the most over-governed state in the union." "The point being that in this analysis it takes money out of taxpayer pockets to support each and every one of these taxing jurisdiction. He went on to say, "That at this particular time of economic hardship, bear in mind, the notion that public expenditures should be based upon economic returns, not upon political expedience." He wanted the committee to understand that authorizing the creation of new governmental units as proposed in **HB 2655** without considering the need to allow for elimination of other units, simply layers additional costs on the taxpayers and weakens the economy. (Attachment #11)

Chair Ray directed the committee's attention to the written testimony by Ed Eilert, Mayor of Overland Park as an opponent to **HB 2655**. Mayor Eilert testimony stood in support of the current state law. He summarize that the City of Overland Park believes it is inappropriate to encourage a proliferation of

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small, incorporated cities in existing urban areas. (Attachment #12)

Questions were asked by committee members and answered by various opponents.

The Chair closed the hearing on HB 2655.

Hearing was opened on: **HB 2795 - concerning the sale of property for delinquent property taxes**

Chair Ray acknowledged proponent Mary Martin Buhl, Johnson County Assistant Counselor. Ms. Buhl expressed support of the Johnson County Board of County Commissioners for **HB 2795**. She told the committee that the bill provides two addition options to the county, both of which are only available if the property has been offered at public auction at least once but has not sold. "**HB 2795** would give counties another way to try to collect delinquent real estate taxes without continuing to spend more in costs than the property and debt merit. (**Attachment #13**) At this point, Ms. Buhl requested a technical amendment to make the terminology consistent within the Bill. The amendment would add two words to line 3 of New Section 2.(a), *or transfer*. (**Attachment #14**)

Questions from the committee were answered by Ms. Buhl.

The hearing on HB 2655 was closed.

HB 2337: creating the Kansas advisory on intergovernmental relations

There were amendments to the bill. (**Attachment #15**) Plus, changing 2001 to **2002** in Sec. 1 (b), Ln 39.

Rep. Hermes made a motion to adopt the amendments including the date change. Rep. Gilbert seconded by Rep. Gilbert. The motion passed, so amended.

Rep. Barnes moved to pass **HB 2337** as amended out of committee. Rep. Hermes seconded. The committee passed **HB 2337** favorably.

HB 2787 - municipalities; relating to recreation systems

Rep. Hermes made a motion for passage of **HB 2787**. Rep. Storm seconded the motion.

Following discussion among the committee, Rep. Hermes withdrew her motion.

A Conceptual Amendment to make **HB 2787** specific to Rep. Bethel's District was made by Rep. Campbell. Seconded by Rep. Storm.

Rep. Hermes moved and it was seconded by Rep. Storm that **HB 2787** be passed out of committee as amended. It passed favorably from committee.

Consideration was opened on **HB 2795**

Rep. Peterson moved **HB 2795** be amended to have the New Sec. 2. Rep. Gilbert seconded. Motion carried on a voice vote.

A motion was made by Rep. Gilbert to pass **HB 2795** as amended, Rep. Storm seconded. Motion passed favorably.

Chair adjourned the meeting at 4:40 p.m. Next scheduled meeting, Feb. 21, 2002.

February 19, 2002

TESTIMONY
HB 2760

The Committee on Local Government
An Act Concerning Historic Property

Madam Chair, members of the Committee:

I am honored to appear before your committee today in support of a bill which I have authored as a result of a contentious argument in my legislative district.

A few years back – four or five, I believe – The Ottawa school board had an engineering study done on the Ottawa Middle School which was located in a central place on Main Street in the heart of the city. The buildings, two of them, were examined by two engineering firms and the board was informed that the structural integrity of the buildings could not be guaranteed. The board was advised to build a new middle school, and to raze the old structures.

A bond issue was passed by the voters and the financing plan included money for tearing away the old structures,

While the board was considering its options, a grass roots movement was begun to save the old school. It had once served as the high school, and provided a considerable amount of sentimental attachment for many of the citizens.

In the meantime, the state historic preservation officer took notice of the school buildings. The school board voted to tear the buildings down,

HB 2760 – Testimony of Ralph Tanner – Page two

believing that they had made a commitment to their voters when the bond issue was passed.

The State Historic Preservation Officer then placed the building on the state registry of historic places, ignoring the apparent intent of the school board regarding this property.

The demolition of a building that is listed on the register as a historic place is quite difficult to manage.

The ability of a historic preservation officer to circumvent a politically ordained body such as a school board seems to me to be poor public policy. On the one hand, when the building was functioning as a school, the school board was held accountable under state statute for the maintenance and operation of the facility.

My bill, if the committee passes it, will place public facilities on an even ground with privately held facilities that are being considered for listing on a registry of historic places. The private owner must grant his/her consent for the act to occur. No such rule obtains in the public sector. To me, logic demands that the public interest be served and that an idicia of public ownership be acknowledged.

And so Madam Chair, I urge the committee to act favorably on this bill and to continue the ability of an appropriately charged public entity to answer for the use and life of buildings which the law puts in their trust.

I will be pleased to stand for questions.

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COMMITTEE ASSIGNMENTS
 WAYS AND MEANS
 ELECTIONS AND LOCAL GOVERNMENT
 TRANSPORTATION
 JOINT COMMITTEE ON SPECIAL CLAIMS
 AGAINST THE STATE

SENATE CHAMBER

Testimony Presented by Senator Dave Jackson
 House Local Government Committee
 February 19, 2002

Thank you, Madam Chair, for allowing me the opportunity to testify in support of HB 2655. This bill results from hearings this summer conducted by the Joint Committee on Economic Development, chaired by Representative William Mason. The hearings were conducted this summer after the conference committee removed an amendment incorporating this language from HB 2124, sponsored by Representative Verlyn Osborne.

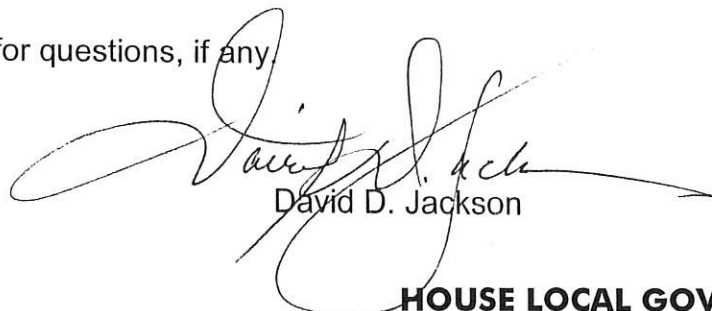
Attached to this testimony is the report of the Joint Committee issued after the hearings were completed. In the Conclusion and Recommendations section the Committee recommended legislation be introduced to delete the unanimous vote requirement by the Board of County Commissioners when an area seeks to incorporate within five miles of an existing city.

Last fall the University of Kansas School of Law presented a report on incorporation of new cities at the Public Policy Clinic held there. I have attached a copy of the executive summary, which recommends making the laws to incorporate a new city easier. For those of you who would prefer, the full 34 page report is available.

In summary, it appears that the modifications in House Bill 2655 to allow the majority vote of County Commissioners, rather than the unanimous vote now required, serves the interests of Kansans by allowing them to choose their entity of government in a fair and equitable manner. Enhanced community economic development can result from this because local decisions can be made to move forward with improvements to infrastructure, rather than waiting for annexation.

I request your favorable consideration of this legislation. It is a matter of equity and fairness for all Kansans.

Thank you, and I will stand for questions, if any.


 David D. Jackson

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Attachment #2

sion to establish a separate Housing Finance Agency. He stated that, although KDOCH recognizes the need for additional revenues, powers, and authority to address the affordable housing needs, the Department is not prepared to endorse any particular structural change at this time.

The Director of the Sedgwick County Division of Community Development presented a progress report on the state-wide housing bond issuance and the Mortgage Revenue Bond program. She noted that the Mortgage Revenue Bond program generally allows a local unit of government to use its taxing authority to issue bonds, at a tax-exempt rate, resulting in a lower interest rate. That advantage allows the local unit to sell the bonds and obtain money to make mortgage loans

at a lower than market rate. The Director also discussed the federal guidelines associated with the program and reviewed maps reflecting the target areas in Kansas. She also discussed several initiatives undertaken by the Community Development Division to make the program more efficient. Also reviewed was the history of the relationship of the Sedgwick County Division of Community Development and the state agency, as well as interlocal agreements with Shawnee County. Two other conferees from Sedgwick County discussed the operation of the program.

CONCLUSIONS AND RECOMMENDATIONS

The Joint Committee makes no recommendation on this topic.

INCORPORATION OF CITIES WITHIN FIVE MILES OF EXISTING CITY

CONCLUSIONS AND RECOMMENDATIONS

The Joint Committee recommends legislation be introduced to delete the unanimous vote requirement by the board of county commissioners when an area seeks to incorporate within five miles of an existing city.

Proposed Legislation: The Joint Committee recommends one bill.

BACKGROUND

Topic No. 5 calls for a review of the law regarding incorporation of cities when the proposed new city is within five miles of an existing city. The topic was suggested for interim study by the Chair of the House Local Government Committee and by Senator David Jackson.

The topic came before the 2001 Legislature when an amendment was added to HB 2124 by the Senate Committee of the Whole. The floor amendment would have changed the city incorporation law to eliminate the unanimous vote requirement of the board of county commissioners when considering the incorporation of a new city within five miles of an existing city. The amendment was removed in the

Conference Committee on HB 2124 with the agreement that an interim study of the incorporation issue would be requested. SB 367 dealing with this issue, also was introduced by the Senate Ways and Means Committee at the request of Senator Jackson. SB 367, assigned to the Senate Elections and Local Government Committee, would amend the city incorporation law to provide that a majority vote of the board of county commissioners is all that would be required to approve an incorporation petition if the territory proposed to be incorporated lies within an improvement district organized prior to January 1, 1987.

Overview of Law

A general law (see KSA 15-115 et seq.), for the incorporation of all cities, was enacted in 1963 in accordance with the constitutional requirement of Article 12, §5, of the Kansas Constitution. Article 12, §5 provides: "The legislature shall provide by general law, applicable to all cities, for the incorporation of cities and the methods by which city boundaries may be altered, cities may be merged or consolidated and cities may be dissolved"

Kansas has 627 cities. Incorporations have declined sharply in the past 25 years. The last cities to incorporate were: Park City in 1979; Bel Aire in 1980, both in Sedgwick County; and Linn Valley, located in Linn County in 1998.

City Incorporation Law

Prerequisites

Basically, for territory to be incorporated as a city, there must be 300 or more persons living in the area and a petition signed by 50 or more electors must be

presented to the board of county commissioners. Two exceptions to the general requirement contained in the law were enacted for special circumstances and appear to have been seldom, if ever, utilized. The first exception permits incorporation if the territory has been designated a national landmark by Congress. This provision was added by the legislature in 1981 to accommodate the incorporation of the historic black community of Nicodemus which has not been incorporated to date. See L. 1981, ch. 86. The second exception permits incorporation for an area which has 300 or more platted lots, each served by water and sewer lines owned by a nonprofit corporation if a petition is signed by 50 or more electors. See KSA 15-116(d) and KSA 15-117.

Petition and Other Documents—Process

The incorporation process begins by the drawing of a petition addressed to the board of county commissioners. Certain items of information must be attached to the petition. For example, an affidavit signed by a qualified signer of the petition must be attached, stating that he or she has conducted a census of the territory and noting the dates the census was conducted. Another item which must be attached is a statement showing the amount of platted and unplatted lands respectively and describing the existing water supply, sewage disposal system, police and fire protection, and other existing facilities and services. The statement also must list the reasons for desiring city government and services. A map must be attached showing the location of the proposed city within the county or counties, the more densely built-up area or areas, and the platted and unplatted areas. Finally, an attachment must show the assessed valuation of both platted and

unplatted real property and improvements and the assessed value or estimate of tangible personal property certified by the county clerk or appraiser. The county clerk must review the petition and attached materials to determine if they are in proper form.

Notice, Public Hearing, Subpoena Power

The next step is for the board of county commissioners to designate a time and place convenient for most of the inhabitants of the territory for a public hearing. The hearing must be held no sooner than 30 days nor more than 90 days from the date the petition was filed. See KSA 15-117.

The county clerk is responsible for insuring notice provisions are met, i.e. published notice and mailed notice of the hearing. A copy of the petition minus the signatures must be published plus a notice of the time and place of the hearing in the official county newspaper at least 15 days before the hearing. Also, posted notice in three public places within the territory is required. Further, the clerk must send notices at least 15 days prior to the hearing to the county clerk of any county in which any part of the territory lies, to any planning commission exercising planning authority over all or part of the territory, to the director of the division of planning of the State Department of Economic Development, now designated the Kansas Department of Commerce and Housing, and to the city clerk of any city within five miles of the territory. See KSA 15-118 and 15-119.

At the hearing, all persons residing within the territory, property owners therein and all persons, agencies, and representatives of governmental units

receiving mailed notices are entitled to speak and present documentary information and briefs. See KSA 15-120. The board is given subpoena powers to compel the attendance of witnesses and the production of papers, books, and documents and to cause a record to be made of the proceedings. The board is empowered to hire expert consultants and, after the hearing, the board may request the director of the division of planning of the State Department of Economic Development (Department of Commerce and Housing) to make a study and render an opinion on the advisability of the incorporation. See KSA 15-120, 15-122, and 15-123.

The Incorporation Decision—Special Provisions for Areas Within Five Miles of Existing City

Before an area may be incorporated that is located within five miles of an existing city, certain special requirements must be met. Six added factors must be considered by the board of county commissioners in their deliberations on the issue, and a unanimous vote of the board of county commissioners is required. See KSA 15-123. In addition, the board may order that further study of the issue be done.

Note, the unanimous vote requirement has been upheld against a constitutional challenge in the case of *In Re Application for Incorporation of a City*, 241 Kan. 396, 736 P.2d 875 (1987).

COMMITTEE ACTIVITIES

The Joint Committee held a hearing on this topic on August 17. Conferees included: Representative Cindy Hermes, Senator David Jackson, the Fire Chief of Soldier Township, two residents of the

Lake Sherwood Improvement District, a representative of the League of Kansas Municipalities, a representative of the Kansas Association of Counties, the mayor of Linn Valley, and a political science professor from the Hugo Wall School of Urban Affairs at Wichita State University.

The two legislators, the representative of Soldier Township and the two residents of the improvement district all supported an amendment to provide for a majority vote of board of county commissioners when deciding the issue of incorporation of a city regardless of whether the area is located within five miles of an existing city. The conferees said the unanimous vote requirement was unfair in light of the ability of a city to unilaterally annex territory by a majority vote. Several conferees said territory annexed to a city often is not provided full city services but residents of the annexed area are required to pay the higher city taxes. One conferee said smaller size governments work better and are more accountable to residents.

The representative of the League of Kansas Municipalities opposed the proposed change of the current law to provide for a majority vote for all incorporation of city decisions. He argued the current law strikes an equitable balance to protect against ill advised incorporations of areas as new cities where these areas lie in close proximity to an existing city. A change in the law would lead to serious difficulties for cities

in regard to future planning and municipal growth. A letter from the Mayor of Overland Park expressed support for the unanimous vote requirement of current law.

The Wichita State University professor provided background on the incorporation of cities issue. The Mayor of Linn Valley and of members of the city governing body described their experience with incorporation of which was located more than five miles of an existing city.

CONCLUSIONS AND RECOMMENDATIONS

The Joint Committee believes that all city incorporation decisions should be decided by the board of county commissioners by a simple majority vote. The Committee notes that at least seven counties now have an expanded number of county commissioners which would make a unanimous vote nearly impossible to obtain in those counties. The Committee therefore recommends proposed legislation which would delete the unanimous vote requirement by the board of county commissioners when deciding incorporation of city questions areas desiring incorporation located within five miles of an existing city.

The Committee therefore agrees to introduce legislation which incorporates its recommendations and urges the 2002 Legislature to give favorable consideration to this bill.

I. Executive Summary

As cities grow they annex the unincorporated area surrounding it. Residents who live outside an existing do not always wish to become annexed and become part of the existing city. Therefore, residents may incorporate their own city to prevent annexation. When the proposed city is within five miles of an existing city, then the current law in Kansas imposes additional requirements the board of county commissioners must consider to approve incorporation of the proposed city. These additional requirements favor annexation as opposed to incorporation and make it difficult for residents to protect themselves from annexation. Many residents have complained about these additional requirements as being unlawful.

This report analyzes several alternatives to the current law in Kansas to regulate the issue of incorporation versus annexation. Incorporation of new cities has not been a major problem in Kansas. In the past 30 years there have only been four newly incorporated cities. Thus, there are three broad alternatives to regulate this issue in Kansas. First, the laws in Kansas could make it more difficult for residents to incorporate a new city. Second, laws in Kansas could make it easier for residents to incorporate a new city. Third, the laws in Kansas could limit the growth of existing cities. Several variations to these three broad alternatives are discussed further in this report.

The general advantages to incorporation of new cities include small town atmospheres, avoidance of the high costs of annexation, higher degree of community identity, less traffic and pollution, more local and responsive government and avoidance of multi-family housing.

The general advantages of annexation include the avoidance of multiple small jurisdictions, avoidance of duplication of service and facilities, larger commercial base, creation of a unified government and the avoidance of the start-up costs associated with incorporating a new city.

Considering there have been few newly incorporated cities in Kansas in the past 30 years, then the best alternative is to limit the growth of cities and make the laws to incorporate a new city easier. Once the laws make incorporation of new cities easier, then there will not be a major threat of multiple small jurisdictions unless there is a rapid increase in population.

STATE REPRESENTATIVE
 51ST DISTRICT
 SHAWNEE &
 POTTAWATOMIE COUNTIES
 VICE-CHAIR OF SHAWNEE
 COUNTY DELEGATION



TOPEKA
 HOUSE OF
 REPRESENTATIVES

COMMITTEE ASS. MEMBERS
 APPROPRIATIONS
 LOCAL GOVERNMENT
 JOINT HOUSE & SENATE
 PENSIONS, INVESTMENTS
 & BENEFITS COMMITTEE

CINDY HERMES

TO: Local Government Committee
 FROM: Representative Cindy Hermes
 RE: HB 2655 - An act concerning counties - relating to the incorporation procedure and elimination of the unanimous vote requirement
 DATE: February 18, 2002

Thank you, Chairman Ray, for allowing me to appear before the Local Government Committee to testify in support of incorporation of cities within five miles of another city found in KSA 15-123. The Joint Committee on Economic Development during the interim studied and recommended legislation be introduced to delete the unanimous vote requirement by the board of county commissioners when an area seeks to incorporate within five miles of an existing city.

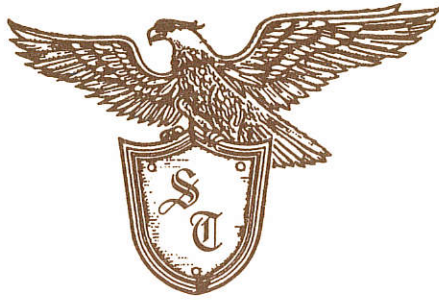
Today, I would like to ask for your support and favorable passage of HB 2655. I agree with the joint committee recommendation that the board of county commissioners should decide all city incorporation decisions by a simple majority vote. The joint committee recommends legislation in the form of HB 2655, which would delete the unanimous vote requirement by the board of county commissioners when deciding incorporation of city questions for areas desiring incorporation located within five miles of an existing city.

I hope you will support this effort to create a level playing field. Thank you.

OFFICE

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 2/19/02
Attachment #4



Soldier Township

600 N.W. 46th, Topeka, Kansas 66617

**Testimony on House Bill 2655
Relating to the Procedure for Incorporation
By
Richard Maginot, Township Business Administrator
February 19, 2002**

K.S.A. 15-123 requires a unanimous vote of the board of county commissioners to incorporate a new city within five miles of an existing city. Soldier Township supports a change that would allow incorporation by a simple majority vote of the County Commission.

Over the years various citizen groups in Soldier Township have discussed possible incorporation of a new city to allow for a governing choice other than annexation into Topeka. To do this would require many months of hard work to prepare a presentation as to the County Commission for their approval. The requirement of a unanimous vote by the commission has stifled this process due to the belief that such a vote would be impossible to obtain.

Current state statues allow unincorporated areas in a county to be annexed by an existing city with a simple majority vote of approval by the County Commission. Changes to K.S.A. 15-123 to only require the same simple majority vote would fairly allow the citizens in an unincorporated area to take a serious look at forming a new city. They could organize, study the feasibility and decide if a proposal to incorporate would be in the best interests of the community without the fear that one commissioner could defeat their efforts.

Self-determination has long been a byword for the citizens of Kansas. All that we ask for is a fair and even playing field to allow these citizens to look at all options before they decide what type of community they want to live in. We ask for your support of HB2655.

Thank you for your consideration of this matter.



League of Kansas Municipalities

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To: Senate Elections and Local Government Committee
From: Don Moler, Executive Director
Date: February 19, 2002
Re: HB 2655

I am appearing today on behalf of the League of Kansas Municipalities and our member cities to express concern over the proposed modification to K.S.A 15-123 concerning the voting procedures on a county commission when considering the incorporation of a city in Kansas. As a matter of information and background I would like to point out that there are currently 627 incorporated cities in the State of Kansas. I have included for the Committee's review League Research Information Bulletin #652 concerning the incorporation of cities in Kansas.

The issue we are discussing here today involves a requirement found in K.S.A. 15-123 which provides that when a territory is proposed to be incorporated as a city which lies **"within five miles of an existing city, the territory shall not be incorporated except by the unanimous vote of the commissioners."** (emphasis added) This is a more stringent requirement than the requirement of a majority vote of the county commission where the territory proposed for incorporation is **outside** of a five mile radius of an existing incorporated city. This language has been part of statutory law in Kansas since 1963, a period of almost 40 years, and we would suggest that it is a wise public policy to continue.

Quite simply, the policy exists to make it more difficult for cities to spring up in close proximity to existing cities. The public policy reasons for this would seem obvious. Most importantly, having a situation where numerous small cities grow up around an existing city would effectively cut off the ability of the existing city to grow and would create a number of competing jurisdictions which would not provide a similar level of services to the public.

We would suggest as a matter of public policy, that the existing statute strikes an equitable balance. While allowing city incorporations within a five mile radius of an existing incorporated city, it still requires a unanimous vote of the county commission. We believe that this heightened vote requirement provides a safeguard against the ill-advised incorporation of improvement districts which lie in close proximity to an

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existing city. Clearly these improvement districts are part of the community of the larger city and should not be incorporated as a separate political entity.

We believe the legislators of 40 years ago were very wise in their approach to city incorporation as it allows for incorporations within a five mile radius but makes it more difficult than those outside of that perimeter. We urge this Committee to take great care in supporting a change to K.S.A. 15-123 as it applies to incorporation of cities within a five mile radius of an existing city as we believe a change to the simple unanimous vote of the county commission could lead to serious difficulties with municipal planning and growth down the road. I appreciate the Committee allowing the League to testify today and will be happy to answer any questions you may have.

Incorporation of Cities in Kansas

The trend of new city incorporations in Kansas has declined sharply during the past 35 years. Since January 1, 1966, there have only been 7 newly formed cities. This is the lowest number for any 35-year period during the history of the state.

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 5 miles of an existing city. Since the law took effect in 1963, only 8 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. The number of Kansas cities, now totaling 627, has increased by a net of 6 since 1963. While 8 new cities were formed, the City of Wellsford was unincorporated in 1975 and the City of Harris (Anderson County) was unincorporated in 2001.

City Consolidations

K.S.A. 12-301 *et seq.* authorizes the consolidation of contiguous cities in Kansas. There have been at least 10 consolidations of cities in Kansas since 1867. The following information is from the records of the League of Kansas Municipalities.

- 1867 - Eugene consolidated with Topeka (4/11)
- 1886 - Armourdale consolidated with K.C. (state law)
- 1886 - Wyandotte consolidated with K.C. (state law)
- 1887 - South Topeka consolidated with Topeka (5/10)
- 1899 - Potwin Place consolidated with Topeka (4/13)
- 1907 - Empire City consolidated with Galena (7/10)
- 1910 - Argentine consolidated with K.C. (state law, 1/1)
- 1922 - Rosedale consolidated with K.C.
- 1926 - Oakland consolidated with Topeka (state law; 2/28)
- 1960 - Provence Village consolidated with Olathe (2/1)

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 town merger proposals with the City of Mission. On June 2, 1959, the vote was 57 yes and 140. 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-County Consolidation

Pursuant to special enabling legislation set out in K.S.A. 12-340, the citizens of Wyandotte County and Kansas City, Kansas voted to established the Unified Government of Wyandotte County/Kansas City in 1997. It is the first consolidated city/county in the state.

City Dissolutions

K.S.A. 15-111 provides a process for the dissolution (unincorporation) of a city in Kansas. Complete information is not available as to the number of Kansas cities which have been dissolved. Part of the uncertainty results from the 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 disappeared since statehood and 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 unincorporated as a result of being inundated by the Tuttle Creek dam reservoir. In 1975, the City of Wellsford, located in Kiowa County, was dissolved. Wellsford was originally incorporated in 1917 and had a population of 17 when unincorporated in 1975.

On April 3, 2001, the City of Harris in Anderson County was unincorporated by a vote of 9 yes and 2 no. Harris was originally incorporated on March 4, 1929 and had a population of 42 when unincorporated in 2001.

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.

Incorporation By Five-Year Periods

The list below presents the approximate number of city incorporations 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.

<u>Period</u>	<u># Incorporated</u>	<u>Cumulative Total</u>
1855 - 1861	16	16
1861 - 1865	1	17
1866 - 1870	24	41
1871 - 1875	48	89
1876 - 1880	43	132
1881 - 1885	75	207
1886 - 1890	111	318
1891 - 1895	11	329
1896 - 1900	18	347
1901 - 1905	56	403
1906 - 1910	64	467
1911 - 1915	30	497
1916 - 1920	29	526
1921 - 1925	24	550
1926 - 1930	28	580**
1931 - 1935	6	586
1936 - 1940	4	590
1941 - 1945	1	591
1946 - 1950	11	601
1951 - 1955	10	612
1956 - 1960	7	618*
1961 - 1965	6	623*
1966 - 1970	2	625
1971 - 1975	1	625*
1976 - 1980	0	625
1981 - 1985	2	627
1986 - 1991	0	627
1991 - 1996	0	627
1997 - 2001	1	627*

**Net number of active cities at end of 1930.

* Net of consolidations and unincorporations

Incorporated Cities in Kansas

as of August, 2001

City	County	Population	Incorporation
<i>Abbyville</i>	Reno	128	March 10, 1924
<i>Abilene</i>	Dickinson	6,543	September 3, 1869
<i>Admire</i>	Lyon	177	July 3, 1916
<i>Agenda</i>	Republic	81	December 16, 1916
<i>Agra</i>	Phillips	306	October 7, 1904
<i>Albert</i>	Barton	181	November 9, 1929
<i>Alden</i>	Rice	168	July 3, 1916
<i>Alexendar</i>	Rush	75	April 20, 1926
<i>Allen</i>	Lyon	211	January 19, 1909
<i>Alma</i>	Wabaunsee	797	April 13, 1869
<i>Almena</i>	Norton	469	April 10, 1893
<i>Alta Vista</i>	Wabaunsee	442	June 1905
<i>Altamont</i>	Labette	1,092	September 29, 1879
<i>Alton</i>	Osborne	117	September 22, 1885
<i>Altoona</i>	Wilson	485	1887
<i>Americus</i>	Lyon	938	September 29, 1884
<i>Andale</i>	Sedgwick	766	October 7, 1901
<i>Andover</i>	Butler	6,698	February 4, 1957
<i>Anthony</i>	Harper	2,440	July 18, 1879
<i>Arcadia</i>	Crawford	391	February 1, 1886
<i>Argonia</i>	Sumner	534	1885
<i>Arkansas City</i>	Cowley	11,963	September 18, 1884
<i>Arlington</i>	Reno	459	October 5, 1887
<i>Arma</i>	Crawford	1,529	June 9, 1909
<i>Ashland</i>	Clark	975	April 12, 1886
<i>Assaria</i>	Saline	438	January 14, 1886
<i>Atchison</i>	Atchison	10,232	August 10, 1855
<i>Athol</i>	Smith	51	1911
<i>Atlanta</i>	Cowley	255	January 6, 1903
<i>Attica</i>	Harper	636	February 16, 1885
<i>Atwood</i>	Rawlins	1,279	October 15, 1885
<i>Auburn</i>	Shawnee	1,121	June 27, 1963
<i>Augusta</i>	Butler	8,423	February 8, 1871
<i>Aurora</i>	Cloud	79	June 9, 1910
<i>Axtell</i>	Marshall	445	October 6, 1887
<i>Baldwin City</i>	Douglas	3,400	September 27, 1870
<i>Barnard</i>	Lincoln	123	April 6, 1905
<i>Barnes</i>	Washington	152	1897
<i>Bartlett</i>	Labette	124	December 1906
<i>Basehor</i>	Leavenworth	2,238	June 20, 1965
<i>Bassett</i>	Allen	22	November 2, 1903
<i>Baxter Springs</i>	Cherokee	4,602	February 25, 1868
<i>Bazine</i>	Ness	311	November 3, 1924
<i>Beattie</i>	Marshall	277	October 14, 1884
<i>Bel Aire</i>	Sedgwick	5,836	1981
<i>Belle Plaine</i>	Sumner	1,708	May 10, 1884
<i>Belleville</i>	Republic	2,239	December 12, 1887
<i>Beloit</i>	Mitchell	4,019	August 1872
<i>Belpre</i>	Edwards	104	March 22, 1906
<i>Belvue</i>	Pottawatomie	228	May 1913

Incorporated Cities in Kansas

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City	County	Population	Incorporation
<i>Benedict</i>	Wilson	103	1905
<i>Bennington</i>	Ottawa	623	May 9, 1885
<i>Bentley</i>	Sedgwick	368	November 1960
<i>Benton</i>	Butler	827	January 6, 1909
<i>Bern</i>	Nemaha	204	July 6, 1910
<i>Beverly</i>	Lincoln	199	October 29, 1904
<i>Bird City</i>	Cheyenne	482	1885
<i>Bison</i>	Rush	235	March 18, 1912
<i>Blue Mound</i>	Linn	277	November 14, 1884
<i>Blue Rapids</i>	Marshall	1,088	1872
<i>Bluff City</i>	Harper	80	August 1, 1887
<i>Bogue</i>	Graham	179	March 21, 1935
<i>Bonner Springs</i>	Johnson & Wyandotte	6,768	November 8, 1898
<i>Brewster</i>	Thomas	285	April 6, 1920
<i>Bronson</i>	Bourbon	346	1881
<i>Brookville</i>	Saline	259	April 3, 1871
<i>Brownell</i>	Ness	48	January 1, 1927
<i>Bucklin</i>	Ford	725	April 20, 1909
<i>Buffalo</i>	Wilson	284	October 4, 1898
<i>Buhler</i>	Reno	1,358	June 6, 1913
<i>Bunker Hill</i>	Russell	101	June 1886
<i>Burden</i>	Cowley	564	February 6, 1883
<i>Burdett</i>	Pawnee	256	November 28, 1961
<i>Burlingame</i>	Osage	1,017	1861
<i>Burlington</i>	Coffey	2,790	1870
<i>Burns</i>	Marion	268	October 7, 1905
<i>Burr Oak</i>	Jewell	265	May 15, 1880
<i>Burrton</i>	Harvey	932	September 2, 1878
<i>Bushong</i>	Lyon	55	August 21, 1923
<i>Bushton</i>	Rice	314	1907
<i>Byers</i>	Pratt	50	1915
<i>Caldwell</i>	Sumner	1,284	July 29, 1879
<i>Cambridge</i>	Cowley	103	December 7, 1916
<i>Caney</i>	Montgomery	2,092	July 5, 1887
<i>Canton</i>	McPherson	829	August 1880
<i>Carbondale</i>	Osage	1,478	October 15, 1872
<i>Carlton</i>	Dickinson	38	April 2, 1929
<i>Cassoday</i>	Butler	130	April 4, 1960
<i>Cawker City</i>	Mitchell	521	May 20, 1874
<i>Cedar</i>	Smith	26	September 13, 1916
<i>Cedar Point</i>	Chase	53	August 1912
<i>Cedar Vale</i>	Chautauqua	723	April 26, 1884
<i>Centralia</i>	Nemaha	534	September 14, 1882
<i>Chanute</i>	Neosho	9,411	December 9, 1872
<i>Chapman</i>	Dickinson	1,241	September 1883
<i>Chase</i>	Rice	490	July 1902
<i>Chautauqua</i>	Chautauqua	113	February 6, 1882
<i>Cheney</i>	Sedgwick	1,783	1884
<i>Cherokee</i>	Crawford	722	February 25, 1874
<i>Cherryvale</i>	Montgomery	2,386	1880

Incorporated Cities in Kansas

as of August, 2001

City	County	Population	Incorporation
Chetopa	Labette	1,281	March 30, 1868
Cimarron	Gray	1,934	1885
Circleville	Jackson	185	1901
Claflin	Barton	705	July 18, 1901
Clay Center	Clay	4,564	1880
Clayton	Decatur & Norton	66	February 4, 1907
Clearwater	Sedgwick	2,178	1885
Clifton	Clay & Washington	557	May 21, 1884
Climax	Greenwood	64	December 3, 1923
Clyde	Cloud	740	1869
Coats	Pratt	112	April 22, 1909
Coffeyville	Montgomery	11,021	March 22, 1872
Colby	Thomas	5,450	July 16, 1886
Coldwater	Comanche	792	1884
Collyer	Trego	133	April 3, 1917
Colony	Anderson	397	February 4, 1886
Columbus	Cherokee	3,396	1871
Colwich	Sedgwick	1,229	June 6, 1887
Concordia	Cloud	5,714	1872
Conway Springs	Sumner	1,322	July 26, 1886
Coolidge	Hamilton	86	March 3, 1886
Copeland	Gray	339	March 3, 1927
Corning	Nemaha	170	April 16, 1889
Cottonwood Falls	Chase	966	October 1872
Council Grove	Morris	2,321	March 3, 1887
Countryside	Johnson	295	July 2, 1951
Courtland	Republic	334	1892
Coyville	Wilson	71	June 12, 1906
Cuba	Republic	231	January 5, 1885
Cullison	Pratt	98	1887
Culver	Ottawa	164	1909
Cunningham	Kingman	514	July 8, 1908
Damar	Rooks	155	February 26, 1935
Danville	Harper	59	November 1927
De Soto	Johnson	4,561	1898
Dearing	Montgomery	415	January 25, 1909
Deerfield	Kearny	884	1907
Delia	Jackson	179	November 4, 1918
Delphos	Ottawa	469	1884
Denison	Jackson	231	January 11, 1904
Denton	Doniphan	186	1896
Derby	Sedgwick	17,807	1903
Dexter	Cowley	364	1884
Dighton	Lane	1,261	January 4, 1887
Dodge City	Ford	25,176	November 2, 1875
Dorrance	Russell	205	April 19, 1910
Douglass	Butler	1,813	November 25, 1879
Downs	Osborne	1,038	July 27, 1879
Dresden	Decatur	51	September 6, 1920
Dunlap	Morris	81	January 26, 1887

Incorporated Cities in Kansas

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City	County	Population	Incorporation
Durham	Marion	114	May 5, 1906
Dwight	Morris	330	July 7, 1905
Earlton	Neosho	80	March 1, 1912
Eastborough	Sedgwick	826	June 1, 1937
Easton	Leavenworth	362	1903
Edgerton	Johnson	1,440	June 4, 1883
Edmond	Norton	47	April 4, 1916
Edna	Labette	423	July 3, 1892
Edwardsville	Wyandotte	4,146	June 28, 1915
Effingham	Atchison	588	July 8, 1890
El Dorado	Butler	12,057	March 30, 1870
Elbing	Butler	218	July 1919
Elgin	Chautauqua	82	August 4, 1919
Elk City	Montgomery	305	1871
Elk Falls	Elk	112	March 31, 1887
Elkhart	Morton	2,233	July 1913
Ellinwood	Barton	2,164	April 23, 1878
Ellis	Ellis	1,873	January 31, 1888
Ellsworth	Ellsworth	2,965	1868
Elmdale	Chase	50	1900
Elsmore	Allen	73	May 4, 1909
Elwood	Doniphan	1,145	March 26, 1878
Emmett	Pottawatomie	277	December 6, 1920
Emporia	Lyon	26,760	1870
Englewood	Clark	109	October 30, 1885
Ensign	Gray	203	April 1, 1929
Enterprise	Dickinson	836	February 19, 1878
Erie	Neosho	1,211	January 1870
Esbon	Jewell	148	September 22, 1904
Eskridge	Wabaunsee	589	July 8, 1887
Eudora	Douglas	4,307	February 8, 1859
Eureka	Greenwood	2,914	May 2, 1870
Everest	Brown	314	June 4, 1882
Fairview	Brown	271	1886
Fairway	Johnson	3,952	May 21, 1949
Fall River	Greenwood	156	November 1879
Florence	Marion	671	June 8, 1872
Fontana	Miami	149	February 25, 1889
Ford	Ford	314	November 1887
Formoso	Jewell	129	June 1, 1882
Fort Scott	Bourbon	8,297	February 27, 1860
Fowler	Meade	567	May 1908
Frankfort	Marshall	855	July 24, 1875
Frederick	Rice	11	October 1909
Fredonia	Wilson	2,600	1871
Freeport	Harper	6	August 12, 1887
Frontenac	Crawford	2,996	1895
Fulton	Bourbon	184	June 10, 1884
Galatia	Barton	61	January 3, 1921
Galena	Cherokee	3,287	June 19, 1877

Incorporated Cities in Kansas

as of August, 2001

City	County	Population	Incorporation
Galesburg	Neosho	150	February 16, 1907
Galva	McPherson	701	August 1887
Garden City	Finney	28,451	January 13, 1883
Garden Plain	Sedgwick	797	September 2, 1902
Gardner	Johnson	9,396	January 8, 1887
Garfield	Pawnee	198	April 4, 1910
Garnett	Anderson	3,368	October 7, 1861
Gas	Allen	556	August 1, 1901
Gaylord	Smith	145	July 9, 1886
Gem	Thomas	96	December 7, 1926
Geneseo	Rice	272	July 15, 1887
Geuda Springs	Cowley & Sumner	212	April 1884
Girard	Crawford	2,773	November 10, 1869
Glade	Phillips	114	October 7, 1948
Glasco	Cloud	536	April 14, 1886
Glen Elder	Mitchell	439	November 28, 1879
Goddard	Sedgwick	2,037	1910
Goessel	Marion	565	March 10, 1952
Goff	Nemaha	181	April 12, 1894
Goodland	Sherman	4,948	September 5, 1887
Gorham	Russell	260	April 10, 1941
Gove	Gove	105	1886
Grainfield	Gove	327	April 12, 1887
Grandview Plaza	Geary	1,184	March 4, 1963
Great Bend	Barton	15,345	1872
Greeley	Anderson	327	June 20, 1881
Green	Clay	147	1908
Greenleaf	Washington	357	August 24, 1880
Greensburg	Kiowa	1,574	June 18, 1886
Grenola	Elk	231	August 7, 1880
Gridley	Coffey	372	1910
Grinnell	Gove	329	1917
Gypsum	Saline	414	April 11, 1887
Haddam	Washington	169	July 7, 1886
Halstead	Harvey	1,873	March 12, 1877
Hamilton	Greenwood	334	October 9, 1903
Hamlin	Brown	53	May 1889
Hanover	Washington	653	July 5, 1872
Hanston	Hodgeman	259	August 21, 1929
Hardtner	Barber	199	August 10, 1911
Harper	Harper	1,567	June 1880
Hartford	Lyon	500	March 12, 1884
Harveyville	Wabaunsee	267	January 6, 1905
Havana	Montgomery	86	November 22, 1909
Haven	Reno	1,175	July 1, 1901
Havensville	Pottawatomie	146	July 19, 1892
Haviland	Kiowa	612	April 12, 1906
Hays	Ellis	20,013	May 18, 1885
Haysville	Sedgwick	8,502	July 3, 1951
Hazelton	Barber	144	1887

Incorporated Cities in Kansas

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City	County	Population	Incorporation
Hepler	Crawford	154	April 11, 1887
Herington	Dickinson & Morris	2,563	April 11, 1887
Herndon	Rawlins	149	1906
Hesston	Harvey	3,509	May 12, 1921
Hiawatha	Brown	3,417	1859
Highland	Doniphan	976	1857
Hill City	Graham	1,604	1888
Hillsboro	Marion	2,854	June 24, 1884
Hoisington	Barton	2,975	November 11, 1886
Holcomb	Finney	2,026	May 1, 1961
Hollenberg	Washington	31	July 14, 1937
Holton	Jackson	3,353	July 30, 1870
Holyrood	Ellsworth	464	July 1901
Hope	Dickinson	372	September 1886
Horace	Greeley	143	October 3, 1887
Horton	Brown	1,967	September 10, 1887
Howard	Elk	808	November 1887
Hoxie	Sheridan	1,244	August 20, 1886
Hoyt	Jackson	571	April 1909
Hudson	Stafford	133	1905
Hugoton	Stevens	3,708	January 1910
Humboldt	Allen	1,999	April 1870
Hunnewell	Sumner	83	1882
Hunter	Mitchell	77	April 5, 1918
Huron	Atchison	87	July 1, 1890
Hutchinson	Reno	40,787	September 25, 1872
Independence	Montgomery	9,846	July 25, 1870
Ingalls	Gray	328	April 1, 1929
Inman	McPherson	1,142	April 12, 1894
Iola	Allen	6,302	February 28, 1870
Isabel	Barber	108	October 6, 1909
Iuka	Pratt	185	December 1908
Jamestown	Cloud	399	June 1883
Jennings	Decatur	146	October 4, 1906
Jetmore	Hodgeman	903	April 16, 1887
Jewell	Jewell	483	August 8, 1880
Johnson City	Stanton	1,528	January 4, 1888
Junction City	Geary	18,886	February 8, 1859
Kanopolis	Ellsworth	543	January 6, 1887
Kanorado	Sherman	248	1920
Kechi	Sedgwick	1,038	April 29, 1957
Kensington	Smith	529	June 6, 1900
Kincaid	Anderson	178	April 6, 1886
Kingman	Kingman	3,387	August 14, 1883
Kinsley	Edwards	1,658	November 12, 1878
Kiowa	Barber	1,055	April 27, 1885
Kirwin	Phillips	229	March 1, 1877
Kismet	Seward	484	December 2, 1929
Labette	Rush	68	August 4, 1919
LaCrosse	Labette	1,376	1886

Incorporated Cities in Kansas

as of August, 2001

City	County	Population	Incorporation
<i>LaCygne</i>	Linn	1,115	January 14, 1870
<i>LaHarpe</i>	Allen	706	February 1905
<i>Lake Quivira</i>	Johnson & Wyandotte	932	May 11, 1971
<i>Lakin</i>	Kearny	2,316	1888
<i>Lancaster</i>	Atchison	291	1900
<i>Lane</i>	Franklin	256	February 18, 1908
<i>Langdon</i>	Reno	72	April 1, 1912
<i>Lansing</i>	Leavenworth	9,199	June 22, 1959
<i>Larned</i>	Pawnee	4,236	March 17, 1886
<i>Latham</i>	Butler	164	1902
<i>Latimer</i>	Morris	21	August 6, 1929
<i>Lawrence</i>	Douglas	80,098	February 20, 1858
<i>Leavenworth</i>	Leavenworth	35,420	1854
<i>Leawood</i>	Johnson	27,656	November 30, 1948
<i>Lebanon</i>	Smith	303	January 12, 1889
<i>Lebo</i>	Coffey	961	October 6, 1886
<i>Lecompton</i>	Douglas	608	1855
<i>Lehigh</i>	Marion	215	January 8, 1901
<i>Lenexa</i>	Johnson	40,238	May 4, 1907
<i>Lenora</i>	Norton	306	1887
<i>Leon</i>	Butler	645	1880
<i>Leona</i>	Doniphan	88	April 1934
<i>Leonardville</i>	Riley	398	August 18, 1885
<i>Leoti</i>	Wichita	1,598	February 1887
<i>LeRoy</i>	Coffey	593	July 1900
<i>Lewis</i>	Edwards	486	January 5, 1906
<i>Liberal</i>	Seward	19,666	May 1, 1888
<i>Liberty</i>	Montgomery	95	October 16, 1884
<i>Liebenthal</i>	Rush	111	August 5, 1935
<i>Lincoln Center</i>	Lincoln	1,349	1879
<i>Lincolnton</i>	Marion	225	April 20, 1910
<i>Lindsborg</i>	McPherson	3,321	July 1879
<i>Linn</i>	Washington	425	October 1911
<i>Linn Valley</i>	Linn	562	November 23, 1998
<i>Linwood</i>	Leavenworth	374	1895
<i>Little River</i>	Rice	536	November 11, 1886
<i>Logan</i>	Phillips	603	April 19, 1880
<i>Lone Elm</i>	Anderson	27	April 12, 1924
<i>Long Island</i>	Phillips	155	October 3, 1904
<i>Longford</i>	Clay	94	November 7, 1910
<i>Longton</i>	Elk	394	February 6, 1870
<i>Lorraine</i>	Ellsworth	136	June 13, 1923
<i>Lost Springs</i>	Marion	71	October 14, 1904
<i>Louisburg</i>	Miami	2,576	November 3, 1882
<i>Louisville</i>	Pottawatomie	209	1870
<i>Lucas</i>	Russell	436	July 31, 1899
<i>Luray</i>	Russell	203	April 5, 1904
<i>Lyndon</i>	Osage	1,038	December 13, 1970
<i>Lyons</i>	Rice	3,732	February 28, 1880
<i>Macksville</i>	Stafford	514	1886

Incorporated Cities in Kansas

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City	County	Population	Incorporation
<i>Madison</i>	Greenwood	857	February 16, 1885
<i>Mahaska</i>	Washington	107	July 8, 1909
<i>Maize</i>	Sedgwick	1,868	May 17, 1915
<i>Manchester</i>	Dickinson	102	January 1907
<i>Manhattan</i>	Pottawatomie & Riley	44,831	February 14, 1857
<i>Mankato</i>	Jewell	976	April 22, 1880
<i>Manter</i>	Stanton	178	January 28, 1924
<i>Maple Hill</i>	Wabaunsee	469	1908
<i>Mapleton</i>	Bourbon	98	May 6, 1905
<i>Marion</i>	Marion	2,110	August 17, 1875
<i>Marquette</i>	McPherson	542	May 1874
<i>Marysville</i>	Marshall	3,271	February 2, 1861
<i>Matfield Green</i>	Chase	60	March 4, 1924
<i>Mayetta</i>	Jackson	312	October 1902
<i>Mayfield</i>	Sumner	113	April 5, 1927
<i>McCracken</i>	Rush	211	1887
<i>McCune</i>	Crawford	426	October 1881
<i>McDonald</i>	Rawlins	159	October 8, 1919
<i>McFarland</i>	Wabaunsee	271	April 1903
<i>McLouth</i>	Jefferson	868	1888
<i>McPherson</i>	McPherson	13,770	March 4, 1874
<i>Meade</i>	Meade	1,672	October 21, 1885
<i>Medicine Lodge</i>	Barber	2,193	1879
<i>Melvern</i>	Osage	429	1883
<i>Menlo</i>	Thomas	57	April 25, 1926
<i>Meriden</i>	Jefferson	706	August 15, 1891
<i>Merriam</i>	Johnson	11,008	October 23, 1950
<i>Milan</i>	Sumner	137	1890
<i>Mildred</i>	Allen	36	May 6, 1912
<i>Milford</i>	Geary	502	April 30, 1920
<i>Miltonvale</i>	Cloud	523	October 24, 1883
<i>Minneapolis</i>	Ottawa	2,046	1871
<i>Minneola</i>	Clark	717	1909
<i>Mission</i>	Johnson	9,727	July 2, 1951
<i>Mission Hills</i>	Johnson	3,593	June 10, 1949
<i>Mission Woods</i>	Johnson	165	July 22, 1949
<i>Moline</i>	Elk	457	October 27, 1886
<i>Montezuma</i>	Gray	966	January 25, 1917
<i>Moran</i>	Allen	562	August 1881
<i>Morganville</i>	Clay	198	1886
<i>Morland</i>	Graham	164	July 30, 1906
<i>Morrill</i>	Brown	277	1886
<i>Morrowville</i>	Washington	168	October 8, 1929
<i>Moscow</i>	Stevens	247	May 6, 1929
<i>Mound City</i>	Linn	821	June 20, 1871
<i>Mound Valley</i>	Labette	418	April 15, 1887
<i>Moundridge</i>	McPherson	1,593	July 10, 1878
<i>Mount Hope</i>	Sedgwick	830	1887
<i>Mulberry</i>	Crawford	577	August 2, 1902
<i>Mullinville</i>	Kiowa	279	1911

Incorporated Cities in Kansas

as of August, 2001

City	County	Population	Incorporation
<i>Mulvane</i>	Sedgwick & Sumner	5,155	September 27, 1883
<i>Munden</i>	Republic	122	July 8, 1903
<i>Muscotah</i>	Atchison	200	1880
<i>Narka</i>	Republic	93	1900
<i>Nashville</i>	Kingman	111	August 10, 1913
<i>Natoma</i>	Osborne	367	July 3, 1905
<i>Neodesha</i>	Wilson	2,848	March 1, 1871
<i>Neosho Falls</i>	Woodson	179	1892
<i>Neosho Rapids</i>	Lyon	274	October 1923
<i>Ness City</i>	Ness	1,534	July 31, 1886
<i>Netawaka</i>	Jackson	170	July 1, 1884
<i>New Albany</i>	Wilson	73	May 8, 1907
<i>New Cambria</i>	Saline	150	May 6, 1913
<i>New Strawn</i>	Coffey	425	May 18, 1970
<i>Newton</i>	Harvey	17,190	February 22, 1872
<i>Nickerson</i>	Reno	1,194	June 7, 1879
<i>Niotaze</i>	Chautauqua	122	January 5, 1910
<i>Norcatour</i>	Decatur	169	October 10, 1901
<i>North Newton</i>	Harvey	1,522	September 20, 1938
<i>Norton</i>	Norton	3,012	September 12, 1885
<i>Nortonville</i>	Jefferson	620	July 12, 1884
<i>Norwich</i>	Kingman	551	October 6, 1886
<i>Oak Hill</i>	Clay	35	May 6, 1925
<i>Oakley</i>	Logan & Thomas	2,173	October 15, 1887
<i>Oberlin</i>	Decatur	1,994	June 15, 1885
<i>Offerle</i>	Edwards	220	May 1, 1917
<i>Ogden</i>	Riley	1,762	1857
<i>Oketo</i>	Marshall	87	October 15, 1887
<i>Olathe</i>	Johnson	92,962	April 1870
<i>Olivet</i>	Osage	64	February 2, 1924
<i>Olmitz</i>	Barton	138	April 3, 1920
<i>Olpe</i>	Lyon	504	January 7, 1905
<i>Olsburg</i>	Pottawatomie	192	May 15, 1926
<i>Onaga</i>	Pottawatomie	704	May 15, 1926
<i>Oneida</i>	Nemaha	70	June 3, 1884
<i>Osage City</i>	Osage	3,034	April 5, 1872
<i>Osawatomie</i>	Miami	4,645	October 1, 1883
<i>Osborne</i>	Osborne	1,607	January 3, 1870
<i>Oskaloosa</i>	Jefferson	1,165	August 27, 1869
<i>Oswego</i>	Labette	2,046	February 8, 1870
<i>Otis</i>	Rush	325	December 15, 1911
<i>Ottawa</i>	Franklin	11,921	June 18, 1866
<i>Overbrook</i>	Osage	947	March 8, 1948
<i>Overland Park</i>	Johnson	149,080	May 20, 1960
<i>Oxford</i>	Sumner	1,173	October 10, 1879
<i>Ozawkie</i>	Jefferson	552	September 15, 1967
<i>Palco</i>	Rooks	248	July 28, 1903
<i>Palmer</i>	Washington	108	January 7, 1911
<i>Paola</i>	Miami	5,011	December 17, 1859
<i>Paradise</i>	Russell	64	May 19, 1924

Incorporated Cities in Kansas

as of August, 2001

City	County	Population	Incorporation
Park	Gove	151	February 13, 1950
Park City	Sedgwick	5,814	November 26, 1980
Parker	Linn	281	July 1897
Parkerville	Morris	73	1871
Parsons	Labette	11,514	March 8, 1871
Partridge	Reno	259	December 4, 1906
Pawnee Rock	Barton	356	May 2, 1887
Paxico	Wabaunsee	211	April 7, 1914
Peabody	Marion	1,384	March 13, 1879
Penalosa	Kingman	27	January 1, 1929
Perry	Jefferson	901	March 3, 1871
Peru	Chautauqua	183	1904
Phillpsburg	Phillips	2,668	1880
Pittsburg	Crawford	19,243	June 1, 1880
Plains	Meade	1,163	January 1908
Plainville	Rooks	2,029	April 11, 1888
Pleasanton	Linn	1,387	October 9, 1869
Plevna	Reno	99	June 29, 1910
Pomona	Franklin	923	January 1885
Portis	Osborne	123	June 1904
Potwin	Butler	457	January 8, 1907
Powhattan	Brown	91	April 13, 1887
Prairie View	Phillips	141	August 1905
Prairie Village	Johnson	22,072	February 19, 1951
Pratt	Pratt	6,570	October 9, 1884
Prescott	Linn	280	1870
Preston	Pratt	164	April 15, 1909
Pretty Prairie	Reno	615	November 1906
Princeton	Franklin	317	April 4, 1921
Protection	Comanche	558	January 13, 1908
Quenemo	Osage	468	1885
Quinter	Gove	961	October 12, 1909
Radium	Stafford	40	January 1, 1934
Ramona	Marion	94	January 11, 1910
Randall	Jewell	90	April 13, 1887
Randolph	Riley	175	July 1886
Ransom	Ness	338	March 8, 1905
Rantoul	Franklin	241	September 2, 1913
Raymond	Rice	95	December 6, 1954
Reading	Lyon	247	September 1881
Redfield	Bourbon	140	June 9, 1905
Republic	Republic	161	April 23, 1885
Reserve	Brown	100	April 28, 1913
Rexford	Thomas	157	April 2, 1917
Richfield	Morton	48	April 11, 1887
Richmond	Franklin	510	August 18, 1910
Riley	Riley	886	March 1903
Robinson	Brown	216	April 1879
Roeland Park	Johnson	6,817	July 2, 1951
Rolla	Morton	482	August 2, 1921

Incorporated Cities in Kansas

as of August, 2001

City	County	Population	Incorporation
<i>Rose Hill</i>	Butler	3,432	February 7, 1955
<i>Roseland</i>	Cherokee	101	April 3, 1906
<i>Rossville</i>	Shawnee	1,014	June 27, 1881
<i>Rozel</i>	Pawnee	182	November 4, 1929
<i>Rush Center</i>	Rush	176	December 7, 1959
<i>Russell</i>	Russell	4,696	June 4, 1872
<i>Russell Springs</i>	Logan	32	1888
<i>Sabetha</i>	Brown & Nemaha	2,589	July 28, 1874
<i>Salina</i>	Saline	45,679	November 20, 1870
<i>Satanta</i>	Haskell	1,239	June 6, 1929
<i>Savonburg</i>	Allen	91	January 13, 1902
<i>Sawyer</i>	Pratt	124	January 7, 1914
<i>Scammon</i>	Cherokee	496	July 5, 1888
<i>Scandia</i>	Republic	436	April 5, 1879
<i>Schoenchen</i>	Ellis	214	September 1935
<i>Scott City</i>	Scott	3,855	January 10, 1887
<i>Scottsville</i>	Mitchell	21	January 14, 1907
<i>Scranton</i>	Osage	724	1875
<i>Sedan</i>	Chautauqua	1,342	March 16, 1876
<i>Sedgwick</i>	Harvey & Sedgwick	1,537	1872
<i>Selden</i>	Sheridan	201	1905
<i>Seneca</i>	Nemaha	2,122	May 17, 1870
<i>Severance</i>	Doniphan	108	April 1877
<i>Severy</i>	Greenwood	359	1883
<i>Seward</i>	Stafford	63	September 5, 1927
<i>Sharon</i>	Barber	210	December 24, 1885
<i>Sharon Springs</i>	Wallace	835	1890
<i>Shawnee</i>	Johnson	47,996	June 7, 1922
<i>Silver Lake</i>	Shawnee	1,358	April 18, 1870
<i>Simpson</i>	Cloud & Mitchell	114	April 3, 1907
<i>Smith Center</i>	Smith	1,931	1886
<i>Smolan</i>	Saline	218	April 30, 1962
<i>Soldier</i>	Jackson	122	April 13, 1869
<i>Solomon</i>	Dickinson	1,072	October 1871
<i>South Haven</i>	Sumner	390	July 6, 1887
<i>South Hutchinson</i>	Reno	2,539	January 6, 1887
<i>Spearville</i>	Ford	813	May 1885
<i>Speed</i>	Phillips	44	January 3, 1928
<i>Spivey</i>	Kingman	80	July 8, 1887
<i>Spring Hill</i>	Johnson & Miami	2,727	1885
<i>St Francis</i>	Cheyenne	1,497	May 1903
<i>St George</i>	Pottawatomie	434	December 17, 1919
<i>St John</i>	Stafford	1,318	September 30, 1885
<i>St Marys</i>	Pottawatomie & Wabaunsee	2,198	October 8, 1869
<i>St Paul</i>	Neosho	646	April 1869
<i>Stafford</i>	Stafford	1,161	September 10, 1885
<i>Stark</i>	Neosho	106	January 11, 1910
<i>Sterling</i>	Rice	2,642	May 10, 1876
<i>Stockton</i>	Rooks	1,558	April 21, 1880
<i>Strong City</i>	Chase	584	February 5, 1880

Incorporated Cities in Kansas

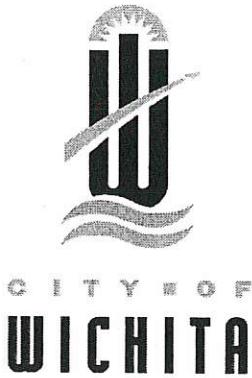
as of August, 2001

<i>City</i>	<i>County</i>	<i>Population</i>	<i>Incorporation</i>
<i>Sublette</i>	Haskell	1,592	April 2, 1923
<i>Summerfield</i>	Marshall	211	October 18, 1889
<i>Sun City</i>	Barber	81	December 10, 1919
<i>Susank</i>	Barton	57	May 7, 1940
<i>Sylvan Grove</i>	Lincoln	324	October 5, 1899
<i>Sylvia</i>	Reno	297	January 27, 1887
<i>Syracuse</i>	Hamilton	1,824	January 25, 1887
<i>Tampa</i>	Marion	144	July 6, 1908
<i>Tescott</i>	Ottawa	339	July 12, 1905
<i>Thayer</i>	Neosho	500	January 3, 1871
<i>Timken</i>	Rush	83	June 16, 1930
<i>Tipton</i>	Mitchell	243	July 15, 1916
<i>Tonganoxie</i>	Leavenworth	2,728	1871
<i>Topeka</i>	Shawnee	122,377	February 14, 1857
<i>Toronto</i>	Woodson	312	January 13, 1885
<i>Towanda</i>	Butler	1,338	1905
<i>Treece</i>	Cherokee	149	1918
<i>Tribune</i>	Greeley	835	February 8, 1888
<i>Troy</i>	Doniphan	1,054	1860
<i>Turon</i>	Reno	436	June 15, 1905
<i>Tyro</i>	Montgomery	226	April 24, 1906
<i>Udall</i>	Cowley	794	1881
<i>Ulysses</i>	Grant	5,960	January 24, 1921
<i>Unified Government</i>	Wyandotte	146,866	March 6, 1886
<i>Uniontown</i>	Bourbon	288	July 1895
<i>Utica</i>	Ness	223	July 6, 1911
<i>Valley Center</i>	Sedgwick	4,883	September 29, 1885
<i>Valley Falls</i>	Jefferson	1,254	May 17, 1869
<i>Vermillion</i>	Marshall	107	April 11, 1899
<i>Victoria</i>	Ellis	1,208	April 12, 1913
<i>Vining</i>	Clay & Washington	58	February 9, 1885
<i>Viola</i>	Sedgwick	211	April 29, 1909
<i>Virgil</i>	Greenwood	113	February 6, 1922
<i>WaKeeney</i>	Trego	1,924	March 29, 1880
<i>Wakefield</i>	Clay	838	June 14, 1887
<i>Waldo</i>	Russell	48	March 1911
<i>Waldron</i>	Harper	17	September 1908
<i>Wallace</i>	Wallace	67	July 1887
<i>Walnut</i>	Crawford	221	March 10, 1874
<i>Walton</i>	Harvey	284	April 12, 1886
<i>Wamego</i>	Pottawatomie	4,246	1869
<i>Washington</i>	Washington	1,223	April 19, 1875
<i>Waterville</i>	Marshall	681	July 30, 1870
<i>Wathena</i>	Doniphan	1,348	1874
<i>Waverly</i>	Coffey	589	1886
<i>Webber</i>	Jewell	37	February 27, 1925
<i>Weir</i>	Cherokee	780	October 17, 1875
<i>Wellington</i>	Sumner	8,647	November 13, 1872
<i>Wellsville</i>	Franklin	1,606	June 19, 1884
<i>West Mineral</i>	Cherokee	243	1907

Incorporated Cities in Kansas

as of August, 2001

City	County	Population	Incorporation
<i>Westmoreland</i>	Pottawatomie	631	1884
<i>Westphalia</i>	Anderson	165	April 1920
<i>Westwood</i>	Johnson	1,533	June 7, 1949
<i>Westwood Hills</i>	Johnson	378	June 6, 1949
<i>Wetmore</i>	Nemaha	362	October 4, 1882
<i>Wheaton</i>	Pottawatomie	92	July 1926
<i>White City</i>	Morris	518	October 19, 1885
<i>White Cloud</i>	Doniphan	239	March 5, 1862
<i>Whitewater</i>	Butler	653	April 9, 1890
<i>Whiting</i>	Jackson	206	April 27, 1888
<i>Wichita</i>	Sedgwick	344,284	April 5, 1871
<i>Willard</i>	Shawnee & Wabaunsee	86	October 22, 1912
<i>Williamsburg</i>	Franklin	351	October 12, 1869
<i>Willis</i>	Brown	69	March 1893
<i>Willowbrook</i>	Reno	36	July 10, 1952
<i>Wilmore</i>	Comanche	57	April 5, 1920
<i>Wilsey</i>	Morris	191	October 5, 1910
<i>Wilson</i>	Ellsworth	799	March 3, 1883
<i>Winchester</i>	Jefferson	579	March 1903
<i>Windom</i>	McPherson	137	May 18, 1885
<i>Winfield</i>	Cowley	12,206	1872
<i>Winona</i>	Logan	228	July 15, 1920
<i>Woodbine</i>	Dickinson	207	April 12, 1909
<i>Woodston</i>	Rooks	116	August 5, 1905
<i>Yates Center</i>	Woodson	1,599	March 8, 1884
<i>Zenda</i>	Kingman	123	June 3, 1913
<i>Zurich</i>	Rooks	126	August 20, 1946
NOTE: Unified Government is listed with City of Kansas City's incorporation date			
NOTE: Population figures are from Year 2000 Census			



TESTIMONY

City of Wichita
Mike Taylor, Government Relations Director
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Taylor_m@ci.wichita.ks.us

House Bill 2665 City Incorporation Procedures

Delivered February 19, 2002
House Local Government Committee

The City of Wichita opposes House Bill 2665. The support behind this bill is driven primarily by an isolated local situation here in Shawnee County, which local elected officials have apparently been unable to resolve. It is not uncommon for the Legislature to be brought in as referees or arbiters in local disputes when one party is unhappy with the outcome. In rare cases, that may be appropriate and necessary. In most cases, however, it burdens the legislative system with political disagreements which should stay local and results in the development of public policy which far exceeds the scope of the original problem. The problem with bills like this, is they take the responsibility and accountability of managing local affairs away from local officials and citizens. In this case, a change in law proposed to primarily benefit a group of citizens here in Shawnee County, would potentially impact every city and county in Kansas. That is unfortunate, unnecessary and poor public policy.

House Bill 2665 proposes changing a well developed, long standing policy dealing with the incorporation of cities and the creation of more government. Current statutes on incorporation address this issue by stating one of the considerations that must be taken into account before approving formation of a new city within five miles of an established city is "...the overall orderly and economic development of the area and to prevent an unreasonable multiplicity of independent municipal governments."

Under current law, people who want to create a new city on the edge of an existing one, have to make a strong case to win a unanimous vote of the County Commission. From my experience, the most frequent reason suburban residents want to form their own city, is that they don't want to be annexed by the larger city next to them. Hardly a compelling reason to create a new city and more government.

Cities which can't grow, decay and die. In the history of every city, the time comes for growth and orderly expansion. That means farmland, vacant land and even neighborhoods built on the edge of the city limits must be annexed. Bringing property inside the city limits allows for better planning and development and makes it easier to provide services in an efficient, affordable manner.

House Bill 2665 seems to be more about making it harder for cities to annex areas in their natural growth path than it does with allowing more neighborhoods to form new cities. But most of all, House Bill 2665 is about the Legislature once again being asked to inject itself into the politics and affairs of a local community. I urge you to decline the invitation.

HOUSE LOCAL GOVERNMENT
2/19/02
Attachment #7

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TESTIMONY IN OPPOSITION TO HOUSE BILL NO. 2655

TO: Representative Gerry Ray, Chair
Representative Larry Campbell, Vice-Chair
Members of the House of Representatives Local Government
Committee

DATE: February 19, 2002

RE: **TESTIMONY OF J. BART BUDETTI, SENIOR ASSISTANT CITY
ATTORNEY, ON BEHALF OF THE CITY OF OVERLAND PARK,
KANSAS CONCERNING HB 2655.**

Ladies and Gentlemen:

KSA 15-123 requires a unanimous vote of a board of county commissioners in order to incorporate a new city within five miles of an existing city. The provision was added in 1963 partly in response to the incorporation of ten small cities in northeast Johnson County during the three years from 1949 to 1951 -- one with only 165 persons. The city of Willowbrook near Hutchinson in Reno County incorporated in 1952 with only 50 persons.

The 1963 statute further requires the Board of County Commissioners to consider whether a proposed incorporation will have an effect on the general legislative desire "to prevent an unreasonable multiplicity of independent municipal governments" when a proposed city is within 5 miles of an existing city.

With respect to Johnson County, the Kansas Supreme Court in a 1987 decision on incorporation of a proposed new city quoted a statement by a member of the Kansas House of Representatives who had identified problems experienced by Johnson County, Kansas, due to a "proliferation of small incorporated cities in a large urban area." (241 Kan. at 404). In that case, the Kansas Supreme Court upheld the validity of KSA 15-123 in the face of several challenges to its constitutionality. In response to the argument that requiring a unanimous vote of the County Commission resulted in an unlawful delegation of decision-making to one commissioner, the Supreme Court responded that the

HOUSE LOCAL GOVERNMENT

2/19/02

Attachment #8

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legislature, in its wisdom, has adopted numerous statutes which require more than a simple majority vote in matters determined by legislative bodies. I will make further reference to that point later.

The Kansas Supreme Court held that when only one commissioner votes to deny the request, that denial is an action of the entire board, is subject to judicial review if it is arbitrary or capricious, and is not an unlawful delegation of authority. Let me quote from the Court:

“ Each individual commissioner casts his or her vote after considering the mandatory statutory factors, among other things, to determine the issue of incorporation. The legislature has provided mandatory guidelines and it cannot be said that requiring a unanimous vote on a matter of **such important local concern as incorporation of an additional city** is an unlawful delegation of legislative authority.”

The Court went on to hold that, applying the rational basis test and the reasonable relation test, the unanimity requirement of the statute is neither a violation of equal protection nor fundamentally unfair. The Court held that by requiring a unanimous vote, the legislature sought to insure that incorporation is appropriate even though the area in question is in close proximity to an existing city. Due to the close proximity of the two territories and their competing interests of annexation versus incorporation, the legislature sought the additional safeguard that **each commissioner**, after considering the statutory factors, is of the opinion that incorporation of one territory would not be detrimental to the already existing city and the county as a whole. The Court found that a requirement of a unanimous vote does have a reasonable basis and bears a rational relationship to the legitimate objectives of the legislature in adopting the statutes. The Court held that the provision of K.S.A.1986 Supp. 15-123 which requires a unanimous vote of the board of county commissioners to grant a petition to incorporate when the area sought to be incorporated lies within five miles of an existing city does not violate either the equal protection or due process clauses of the United States or Kansas Constitutions.

Since 1963 only 8 new cities have incorporated in Kansas. The decline in incorporations since 1963 reflects the increased restrictions on incorporations seen nationwide.

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The 1963 enactment has served Kansas well for almost 40 years, and has promoted municipal growth, without a proliferation of municipal government. In fact, most states today completely ban any incorporation within the urban fringe of an existing municipality. Some of those states require areas wishing to incorporate to first file a petition for annexation to an existing city, giving those cities a right of first refusal.

Urbanizing areas would be better served by a single municipal entity that can efficiently provide municipal services.

In the late 1950's, a Minnesota commission created to oversee annexation and incorporation petitions filed in that state denied the incorporation of three new cities in northern Dakota County, the urbanizing county just south of Hennepin County which contains Minneapolis, saying:

Previous incorporation practice has permitted the tax base to be fragmented by self-starting incorporations which selfishly appropriate new industries whose taxes should be shared on a broader base...but northern Dakota County can avoid the needless proliferation which has hampered local government by creation of small municipalities with little mission or purpose and without an adequate tax base to serve their people.

The Commission also stated that

the needless additional proliferation of small units of local government unable to finance their own services or solve their own problems will sap the vitality of local government.

And in 2001, the Arizona Court of Appeals, in upholding a statute that severely limits proposed incorporations near existing cities, delivered a similar message when it stated that to permit incorporations of cities close to the boundaries of existing cities would result in:

A proliferation of small towns within a short distance of large cities and the attendant inefficient and uneconomical

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provision of government services...the very purpose of Section 9-101.01 is to protect cities and towns from problems that may flow from the existence of many separate governmental entities in a limited geographical area.

City of Tucson v. Pima County, 19 P. 3d 650 (Ariz Ct. App., 2001).

To achieve a unanimous vote, it is true that applicants will have to clearly demonstrate the need and desirability of creating a new municipality so close to an existing city. It is true that requiring a unanimous vote makes it more difficult to get a petition for incorporation approved. We agree that to deviate from the normal majority vote rule there needs to be clear and compelling reasons. Simply put, a unanimous vote requirement ensures that a consensus must be reached by the County Commission on the incorporation of a new city within 5 miles of an existing one. Is it too much to ask that such an essentially irrevocable and potentially momentous decision only be made if there is a consensus among the decision-makers that it is a correct decision?

Multiplicity of cities in close proximity can easily lead to enormously expensive duplication of services and facilities, all paid for by a diminished tax base. Another deleterious effect is that arbitrary and irrational municipal boundaries that can promote inefficient provision of services, and cause widespread confusion or ignorance among residents trying to sort out what city they live in.

In discussing any legislative change, the starting point should be two questions: why was the requirement imposed in the first place, and have conditions changed that make that requirement no longer desirable or necessary? The unanimous vote requirement was imposed to restrain the unnecessary proliferation of inefficient local governments, it has worked effectively to accomplish that goal, and there is no evidence that the conditions that dictated the need for this statute have been eliminated.

Before considering reducing the unanimity requirement, one needs to consider very seriously one additional fact: that requiring a unanimous vote of the County Commission to approve the incorporation of a new municipality within 5 miles of an existing city means that, under all circumstances, the

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elected officials closest to the situation, the commissioners who represent both the area to be incorporated and the affected cities, if any, have to agree on the need for this new city, a requirement that goes a long way toward avoiding a potentially serious mistake that can't be corrected without great difficulty. Reducing or eliminating the unanimity requirement would remove this essential check and balance on such important decisions.

As pointed out by the Supreme Court, numerous existing Kansas statutes require a super-majority decision by the decision making body. KSA 12-10a07 requires, in a modified Mayor-Council government, a unanimous decision of the council to remove a city department head. KSA 19-101b requires a unanimous vote of the county commission for a charter resolution exempting the county from some acts of the legislature, absent a referendum. KSA 19-211 requires a unanimous vote of county commissioners to sell or dispose of county property, the value of which is more than \$50,000. KSA 19-2951 requires a unanimous vote of the governing body of an improvement district on a zoning resolution before the district can regulate the use of buildings or land. KSA 19-3619 requires the unanimous vote of the county commission to approve consolidation of fire districts. KSA 19-4421 requires a unanimous vote of the county commission to modify the budget submitted by the sheriff. KSA 19-4421 creates an exception to the requirement that actions of the legislative coordinating council must be by a majority vote of five members of the legislative coordinating council by allowing that action relating solely to one house of the legislature may be authorized by the unanimous vote of the members of the legislative coordinating council who are members of such house of the legislature.

All of these statutes, and the numerous others that impose super majority requirements in a wide variety of situations, have one thing in common: a determination that considerations of good public policy require a consensus among the decision makers before an important decision is made.

In Kansas, the unanimous vote requirement ensures that incorporation near existing cities will occur only when it will benefit the entire community. The choice facing us is whether to allow existing cities to expand according to sound principles of planned growth or to stunt them by allowing fringe territories to incorporate and suffocate their growth. Any bill that would

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remove the unanimity requirement would be contrary to sound principles of urban planning and the long-standing policy of this state to prevent a proliferation of cities.

Respectfully submitted,



J. Bart Budetti
Senior Assistant City Attorney
City of Overland Park, KS
8500 Santa Fe Drive
Overland Park, KS 66212
913-895-6085

Dear Legislator,

2-19-2002

I am Opposed to HB 2655 for the following very good reasons;

1. There is nothing broken here, there is nothing to fix. If a neighborhood attaching itself to the services of another city- as Lake Sherwood wants to be a 'city'; then it can apply to the County Commission and for a mere three votes- do so. This is Much tempest about nothing. It is a local fight -Not a legislative grave concern for this session of budget problems and fiscal woes.

2. This will open the door for other attached-service connected neighborhoods to declare they should be a city without having to pay the cost for infrastructure of sewer and water plants, or their own police departments-expecting the county at large taxpayers to fund them thru sheriff patrols; and thus increasing taxes on existing urban citizens, and the truly rural citizens alike. It is really a form of welfare for the rich- SUBSIDIZED services at another's expense. Cities in Sedgwick, Johnson, Douglas, Saline, Reno, Riley, Ford Counties should be very concerned about opening this Pandora's box that might well jeopardize the future health, and growth of their legitimate, existing cities and dramatically erode their tax bases.

3. This also a grab for County-wide sales tax revenue by these proposed entities. It will further fragment where the revenue is going and be used to subsidize services in these new entities.

4. What's being proposed with this legislative disaster, is for something new to the Kansas experience- 'parasitic cities'-not the truly stand-alone cities we all know and accept as part of the political landscape-ones that truly pay their own way for their right to be called a city-not attaching themselves to a city like Topeka -and then expecting to compete for sales tax revenue in the future and erode the taxbase of the 'host city' as this proposal will do.

Again there is no compelling reason to change the law-no urgent requirement to meet a need of public good-just a drastic change in public policy that will shortchange the majority of taxpayers in urbanized counties of Kansas for the betterment of an extremely tiny faction of the population of the state in a scheme that defies logic, and rationale reasoning as too why we throughout the history of our country and western civilization have even set up cities. This legislation would cast a dark and foreboding pall over the future of at a minimum ;our 24, first class cities and should be cause for gravest concern of all of their Representative Legislators. I urge your opposition to this bill. Thank you !

Sincerely,


Joseph Ledbetter MPA

305 Country Club Drive

Topeka, Kansas 66611 : Phone 785-232-6946

HOUSE LOCAL GOVERNMENT

2/19/02

Attachment #9

10

**Kansas Department of Commerce and Housing
House Committee on Local Government
Testimony on Proposed Amendment to HB 2655
Tuesday, February 19, 2002**

My name is Ned Webb and I am the Community Development Division Director for the Kansas Department of Commerce & Housing. I am here on behalf of the Department to respectfully request an amendment to HB 2655. We are asking you to consider striking lines 16 to 21; striking the language that reads.

“It may request the director of the division of community development of the department of economic development to make a study of the general area in which the territory is locate, information in possession of the county board and other sources, and render an opinion as to the advisability of the proposed incorporation.”

Annexation is a local issue that should be determined and settled at the local level.

We believe that a county commission is in the best position to determine what is in the best interest of the people of that community. The Community Development Division no longer performs the functions articulated in this 1963 statute nor do we have planning staff capacity to evaluate an annexation action. We ask that you consider modernizing this statue by striking the proposed language.

This legislation was passed in 1963 and amended in 1965, 1968, and 1985. Contained in the passage that we are requesting to be stricken is a reference to the Department of Economic Development whose mission, role, and name was changed in 1986. Prior to 1986 the role of Community Development was largely community betterment programs that included a community planning function. The 1960s and 1970s was a period where Federal and state governments believed that they could pass judgment on local planning efforts. The 701 Federal planning programs were passed

Session of 2002

HOUSE BILL No. 2655

By Joint Committee on Economic Development

1-17

AN ACT concerning cities; relating to the procedure for the incorporation thereof; amending K.S.A. 15-123 and repealing the existing section.

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

Section 1. K.S.A. 15-123 is hereby amended to read as follows: 15-123. After the hearing has been adjourned *sine die*, the board or joint board of county commissioners shall consider the matter. ~~It may request the director of the division of community development of the department of economic development to make a study of the general area in which the territory is located, information in possession of the county board and other sources, and render an opinion as to the advisability of the proposed incorporation.~~ The petition for incorporation shall be denied if it is determined that present or future annexation to an adjacent city, or the creation of an authorized special service district, or districts, would better serve the interest of the area or that the proposed incorporation would be otherwise contrary to the public interest. If the board or joint board determines that the territory should not be incorporated, it shall make an order so stating. ~~In addition to other requirements, if any of the territory wholly within one county is within five miles of an existing city, the territory shall not be incorporated except by the unanimous vote of the commissioners.~~ If the board or joint board determines that the territory should be incorporated, it shall prepare an order or joint order incorporating the territory as a city by the name of "the city of _____" as stated in the petition and describing the metes and bounds thereof. When the order has been adopted, the inhabitants within such bounds and such further territory as from time to time may be lawfully added thereto shall be a body politic and corporate by that name, and they and their successors (except such corporation be lawfully dissolved) shall have perpetual succession. The order shall be adopted at the next regular meeting of the board. Where two counties are involved, the board of each county shall adopt the joint order at its next regular meeting and not less than two commissioners of each county shall vote in favor thereof, ~~except that in addition to other requirements, if any of the territory is within five miles of an existing city, the territory shall not be incorporated except by~~

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1 ~~the unanimous vote of the commissioners of each county involved. The~~
2 order or joint order so incorporating the city shall order the first election
3 in the city for city officers. The order or joint order shall be entered at
4 length upon the journal of the proceedings of the board or boards of
5 county commissioners and shall be published once in some newspaper
6 printed or in general circulation in the city at least one week before the
7 city election. Nomination papers for candidates for city office shall be
8 filed with the county election officer of the county where the petition for
9 incorporation was filed and the county election officer shall conduct such
10 election.

11 Sec. 2. K.S.A. 15-123 is hereby repealed.

12 Sec. 3. This act shall take effect and be in force from and after its
13 publication in the statute book.

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House Committee on Local Government
Statement on HB 2655
Charles R. Ranson
President
Kansas, Inc.
February 19, 2002

As President of Kansas, Inc., I am here today by invitation of the Chair as a neutral presenter. Let me make it clear that Kansas, Inc. neither supports nor opposes HB 2655. My purpose today is to provide you with a perspective developed during the past several years; a perspective that has been closely evaluated in development of "Making the Knowledge Economy Work For All Kansans," the State's newly-released comprehensive strategic plan update.

Today, Kansas is the most over-governed state in the nation. There are (give or take a few) 4,200 governmental taxing units in Kansas. This equates to one taxing unit for each 620 Kansans. There are states with more taxing units (Illinois, Pennsylvania, Texas, and California) but their ratio of government to population is substantially less than in Kansas – 1:1,711 in Illinois, 1:2,326 in Pennsylvania, 1:3,548 in Texas, 1:6,834 in California.

The point made in this analysis and comparison is that it takes money out of taxpayer pockets to support each and every one of these taxing jurisdictions. If not all, virtually all of these jurisdictions employ staff, own equipment and property. Maintaining all of this government is a very expensive proposition.

From an economic development point of view, Kansas is widely perceived as a high tax state. Our recently-released report, the 2001 update to Kansas, Inc.'s "Business Taxes and Costs: A Cross State Comparison" confirms this perception. The heavier our tax burden, the less competitive we become in attracting inbound investment and the more likely we are to see long-time Kansans become tax refugees to Texas or Florida or to other state's with a lower tax burden.

As you discharge your legislative duties, particularly at a time of economic hardship, I encourage you to bear in mind the notion that public expenditures should be based upon economic returns, not upon political expedience. In the course of updating our strategic plan, a process in which more than eleven hundred Kansans participated, we reached a consensus that Kansans are bearing an unsustainable burden of government and the costs that go with it. Decisions are not made on the basis of economic return.

In "*Making the Knowledge Economy Work For All Kansans*," we have proposed that all impediments to inter-government cooperation at the local level (whether statutory, regulatory, or constitutional) be identified and removed so that local communities could make decisions that best suit their needs. A redefinition of what constitutes (and how we meet the demand for) government services is in order. To authorize the creation of new governmental units as proposed in HB 2655 without, at the same time, considering the need to allow for elimination of other units simply layers additional costs upon taxpayers and weakens our economic competitiveness by making us captive to decisions on governance that date back to the middle 1800's.



City Hall • 8500 Santa Fe Drive
Overland Park, Kansas 66212
913/895-6000 • Fax 913/895-5003
www.opkansas.org

February 14, 2002

Representative Gerry Ray, Chair
Representative Larry Campbell, Vice-Chair
Members of the House of Representatives Local Government Committee

Dear Representatives:

Re: HB 2655

The City of Overland Park continues to support current state law that requires a unanimous vote by county commissioners for the incorporation of a new city within five miles of an existing city.

The City of Overland Park believes that it is inappropriate to encourage a proliferation of small, incorporated cities in existing urban areas. The consequential duplication and fragmentation of basic governmental services are inefficient and more expensive ways to provide municipal services.

I urge the committee to support the current state law and oppose HB 2655.

Please contact me at 913-895-6104 for additional information.

Sincerely,

Ed Eilert
Mayor

HOUSE LOCAL GOVERNMENT
2/19/02
Attachment #12



13
MEMORANDUM

TO: The Honorable Gerry Ray, Chair
The Honorable Larry Campbell, Vice Chair
Members, House Local Government Committee

FROM: Mary Martin Buhl, Assistant County Counselor

RE: House Bill 2795

DATE: February 19, 2002

Madame Chair and Committee Members:

My name is Mary Buhl. I am an assistant county counselor for Johnson County and I'm here today to express the support of the Johnson County Board of County Commissioners for House Bill 2795.

Chapter 79 of the Kansas Statutes sets forth the requirements that Kansas counties must follow to foreclose on real estate for delinquent real estate taxes. The process includes a redemption period, a court foreclosure suit, and, ultimately, a sheriff's auction. Occasionally, properties do not sell. Typically, these are properties which are small strips or which do not have great value because of location or other characteristics.

Currently, the only way to sell or dispose of properties is to continue trying to auction the properties. The county can continue to try to sell them at public auction; however, pursuant to statute, the county must publish a list of the properties, including legal descriptions, three times prior to the auction. (This is in addition to the annual list of all delinquencies that the County Treasurer must publish.) The result is that the county will spend more money to publish and in staff time than will be collected.

House Bill 2795 provides two additional options to the county, both of which are **only** available if the property has been offered at public auction at least once but has not sold.

Section 1. (b) **permits the county to sell delinquent properties in groups**, but only if each property had been offered individually at a prior public auction and did not sell.

Section 2. allows a district court to grant permission to a county to negotiate a private sale of the property, or otherwise dispose of the property, but **only** if the property had been offered at a prior public auction and did not sell. Currently, a county would have to buy the property at auction in order to transfer or sell the property in any manner other than a public auction.

We believe that House Bill 2795 would give counties another way to try to collect delinquent real estate taxes without continuing to spend more in costs than the property and debt merit. Thank you for the opportunity to speak to you today.

HOUSE LOCAL GOVERNMENT

2/19/02



14
MEMORANDUM

TO: The Honorable Gerry Ray, Chair
The Honorable Larry Campbell, Vice Chair
Members, House Local Government Committee

FROM: Mary Martin Buhl, Assistant County Counselor

RE: House Bill 2795;
Request for amendment

DATE: February 19, 2002

Madame Chair and Committee Member:

As you consider House Bill 2795, we would respectfully request a technical amendment to make the terminology consistent within the Bill. The amendment would add two words to line 3 of New Section 2.(a), to read as follows:

New Sec. 2. (a) As a part of its order of sale and upon application of the county, a court may authorize the county to dispose of one or more lots or tracts by negotiated public or private sale *or transfer* if the court finds that such property or properties had been included as a part of a prior judgment and order of sale and had not been purchased at the sale.

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Section of 2001

HOUSE BILL No. 2337

By Committee on Local Government

2-6

AN ACT creating the Kansas advisory council on intergovernmental relations; prescribing the powers and duties thereof.

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

Section 1. (a) There is hereby created a Kansas advisory council on intergovernmental relations. The council shall be composed of 15 members of whom 11 shall be appointed by the governor as follows: (1) Two members shall be elected county officials of which, one shall be a member of a board of county commissioners; (2) two members shall be elected city officials; (3) one member shall be an elected township official; (4) one member shall be an elected school board member; (5) two members shall be executive branch officials; and (6) three members shall be private citizens. Two members of the council shall be members of the Kansas senate and shall be appointed by the president of the senate and two members of the council shall be members of the Kansas house of representatives and shall be appointed by the speaker of the house.

City, county and school board members shall be appointed from lists of at least five nominees submitted by their respective state organizations. Of the members appointed by the governor pursuant to (a) (1) and (a) (2) not more than two of such members shall be from any one political party. The members appointed from the private sector shall be appointed without regard to political affiliation. Of the members appointed by the president of the senate and speaker of the house, at least two members shall be from the minority party of their respective houses.

(b) Of the first members appointed by the governor after the effective date of this act, one member of each city and county, the township and school board member, one executive branch member and one private citizen shall hold office for terms of two years beginning July 1, 2001; thereafter all appointments shall be for terms of four years. The remaining members appointed by the governor shall be for terms of four years beginning July 1, 2001. Legislative members shall be appointed to terms which correspond to their terms of office. All members may be reappointed. Should any member cease to be a member of the unit, body or agency such person is appointed to represent, such person's membership on the council shall terminate immediately and a new member shall be

1 appointed in the same manner as the predecessor to fill the unexpired
2 term.

3 (c) Members shall serve without salary but shall be reimbursed for
4 travel and other expenses actually and necessarily incurred in the per-
5 formance of their duties.

6 (d) The council shall each year elect from its membership a chair-
7 person and a vice-chairperson, who shall serve in such capacities for one
8 year and until their successors have been elected. If both the chairperson
9 and vice-chairperson are absent from any meeting, the voting members
10 present shall elect a temporary chairperson by a majority vote.

11 (e) Eight members of the council shall constitute a quorum. Meetings
12 and subcommittee meetings of the council shall be subject to the open
13 meetings law.

14 Sec. 2. (a) It shall be the duty of the council to engage in continuous
15 study of the services provided by the various types and levels of govern-
16 ment within the state, the division of responsibility for providing and
17 financing governmental services, possibilities of improving the organiza-
18 tional structure and operational efficiency of the various governmental
19 units serving the citizens of the state; and the state and local tax structure
20 and the revenue requirements and fiscal policies of the state and its local
21 units of government. The council shall give particular attention to mod-
22 ernization of the structure of Kansas local government, the impact of
23 urbanization on the organization and functions of local government, the
24 impact of technology on the organization and functions of local govern-
25 ment and the relationships between state and local governments.

26 (b) The council shall determine the manner in which the existing laws
27 of the state relating to the subjects of its study may be simplified, modi-
28 fied, rearranged, consolidated and revised to insure greater effectiveness
29 in the governmental practices of this state. The council shall make an
30 annual report in writing to the governor and legislature. Such report shall
31 be transmitted to the legislative coordinating council on or before De-
32 cember 1, for inclusion, as the coordinating council may determine, in its
33 annual report. All recommendations requiring statutory changes shall be
34 in legislative bill form. Recommendations requiring constitutional
35 changes shall contain the language of the proposed amendments and laws
36 to implement the recommendations. All such bills and proposed consti-
37 tutional amendments shall have received approval as to form by the re-
38 visor of statutes prior to transmission thereof to the legislative coordinat-
39 ing council.

40 Sec. 3. Each officer, board, commission or department of state gov-
41 ernment or local unit of government, shall make available to the council
42 all facts, records, information and data requested by council and in all
43 ways cooperate with the council in carrying out its duties imposed by this

may

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TEL: 785-354-4186

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1 act.
2 Sec. 4. The council shall meet as often as may be necessary to per-
3 form its duties and shall meet in each congressional district of the state
4 at least once in each biennium.

5 Sec. 5. ~~The legislature shall make an annual appropriation to finance~~
6 ~~the activities of the council consistent with the general welfare of the~~
7 ~~state.~~

The council is hereby authorized to receive
moneys from any grants, gifts, contributions, bequests,
or other donations.

8 Sec. 6. The council is hereby authorized to engage legal counsel and
9 expert advisors on the subject of taxation or governmental organization
10 and procedures as may be necessary to carry out the duties of the council.
11 Compensation for such counsel and advisors shall be determined by the
12 council within the limits of ~~appropriations made therefor.~~

available funds.

13 Sec. 7. Any member of the legislature, appointed state official or
14 elected public official shall have the right to attend any meeting of the
15 council; and may present such official's views on any subject which the
16 council may be considering. Such official shall not have the right to par-
17 ticipate in any decision which the council may make unless such official
18 is a member of the council.

19 Sec. 8. The council may adopt such rules of procedure, consistent
20 with this act, as may be necessary to carry out the powers, duties and
21 functions of the council.

22 Sec. 9. This act shall take effect and be in force from and after its
23 publication in the Kansas register.
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