

BPA

Approved: April 30, 2004
Date

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairperson Barbara Allen at 1:30 p.m. on March 23, 2004 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Legislative Research
Martha Dorsey, Legislative Research
Ken Wilke, Revisor of Statutes
Nancy Kirkwood, Committee Secretary

Conferees appearing before the committee:

Senator Jim Barnett
Representative Peggy Long-Mast
Pat Lehman, Kansas Fire Service Alliance
Bill Walker, Fire Chief, Coffey County Fire District #1
Representative Toelkes
Mark Lenz - Representing Sunny Dale Area, Park City
Talmer Easley- Haysville
Joanie Storck- Haysville
LaVonna Benner- Haysville
Fred Mosteller- Wichita
Jane Mosteller- Wichita
Lynanne Degarmo- Wichita
Lisa Stubbs - member, Topeka City Council
Jack and Margaret McCormick, Sedgwick County

Others attending:

See Attached List.

Hearing on:

HB 2528 - Purchase of installation of fire hydrants by fire districts

Vice-Chairperson O'Connor opened the hearing on **HB 2528**.

Written testimony from Senator Jim Barnett in support of **HB 2528** was distributed to committee members (Attachment 1).

Vice-Chairperson O'Connor welcomed Representative Peggy Long-Mast to the committee, who presented testimony in support of **HB 2528** (Attachment 2).

Vice-Chair O'Connor recognized Pat Lehman to address the committee. Mr. Lehman, representing Kansas Fire Service Alliance, presented testimony in support of **HB 2528** (Attachment 3).

Vice-Chair O'Connor recognized Bill Walker as a proponent **HB 2528**. Mr. Walker, Fire Chief for Coffey county fire district #1, presented testimony in favor of **HB 2528**. (Attachment 4).

Vice-Chairperson O'Connor closed the hearing on **HB 2528**.

Action on:

HB 2528 - Purchase of installation of fire hydrants by fire districts

Senator Clark moved to pass **HB 2528** out of committee favorably, seconded by Senator Schmidt. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE at 1:30 p.m. on March 23, 2004 in Room 423-S of the Capitol.

HB 2805 - Law enforcement consolidation; Lincoln and Cloud counties

An amendment to put to the voters was addressed by Senator Schmidt (Attachment 5). Jeff Bottenberg representing the Sheriffs' association stated it would be in support of the amendment. Senator Schmidt moved to adopt the amendment. Senator Clark seconded the motion and the motion carried.

Senator Schmidt second amendment would be for the local agencies to make the decision as to the retirement of county law enforcement officers and employees (Attachment 6) Senator Schmidt made a motion to adopt the amendment, seconded by Senator Clark. The motion carried. Senator Clark moved to pass HB 2805 favorably as amended, seconded by Senator Schmidt. The motion carried.

Hearing on subject matter of HB 2654 - Annexation by cities, election; extension of municipal services required; procedure to deannex

Senator Jackson recognized by the Chair had distributed to the committee an annexation amendment (Attachment 7).

Testifying before the committee as proponents of **HB 2654** were Representative Toelkes (Attachment 8); Mark Lenz, Valley Center, Kansas (Attachment 9); Talmer Easley, Haysville, Kansas (Attachment 10); Joanie Storck, Haysville, Kansas (Attachment 11); LaVonna Bonner, Haysville, Kansas (Attachment 12); Jane Mosteller, Wichita, Kansas (Attachment 13); Kelly Wendeln, Chanute, Kansas (Attachment 14); Lynanne Degarmo, Valley Center, Kansas (Attachment 15).

Written testimony from proponents are: Gerald and Gynne Lamooney, (Attachment 16); Cathy Byers, Haysville, Kansas (Attachment 17); Julia Callier, Haysville, Kansas (Attachment 18); Adraine Baker, Wichita, Kansas (Attachment 19); Jack and Margaret McCormick (Attachment 20).

Those in opposition to **HB 2654** appearing before the committee were Kathy Damron. She presented copies of testimony presented to the House Local Government Committee during hearings held earlier in the session. Kathy also presented copies of remarks from Topeka Mayor James McClinton, Topeka City Councilwoman Lisa Stubbs and a resolution adopted by the City of Topeka (Attachment 21).

Lisa Stubbs, member of the Topeka City Council appeared before the committee in opposition. Ms Stubbs stated this would be a major policy change for the state of Kansas. This annexation amendment would basically be a review board of city representative, county representative and a land owner. It would be transferring all unilateral annexation over to the county commission to make decisions. No written testimony was presented.

The minutes of January 20, February 5, 10, March 9 and 11th were approved on a motion by Senator O'Connor seconded by Senator Betts. The motion carried.

The meeting adjourned 2:25 p.m.

SENATE
ELECTIONS AND LOCAL GOVERNMENT
GUEST LIST

Date Tues 3/23

Judy Moler	KAC
MARK LENZ	SUNNYDALE
Lynanne DeGarmo	Sunnydale
Pat Rehman	KFSA
Kim Gullett	LKM
Mike Vaille	CSSB
Mark Taddiken	Senate
Daniel Carlton	
Kelly Wendeln	Chanute
Frankie Morse	Wichita
Janie Storch	Haysville
TERRY HADROW	KS Farm Bureau
TALMER Easley	HAYSVILLE
Jeff Botterberg	Kansas Stor. & Ass'n
Lisa Stubbs	City of Topeka
Mindy Shaw	Kearney & Associates
Vicki Schwemmer	El Dorado
Neil Mosteller	Wichita

JIM BARNETT
SENATOR, 17TH DISTRICT
CHASE, COFFEY, GEARY, GREENWOOD
LYON, MARION, MORRIS, OSAGE, AND
WABAUNSEE COUNTIES



TOPEKA

SENATE CHAMBER

Testimony

House Bill 2528

COMMITTEE ASSIGNMENTS
CHAIR: HEALTH INSURANCE ISSUES
WORKING GROUP
VICE CHAIR: PUBLIC HEALTH AND WELFARE
VICE CHAIR: FINANCIAL INSTITUTIONS AND
INSURANCE
MEMBER: FEDERAL AND STATE AFFAIRS
HEALTH CARE STABILIZATION
FUND OVERSIGHT

Chairman Allen and members of the Senate Elections and Local Government Committee, thank you for the opportunity to write in support of HB 2528.

Currently, rural fire districts are not permitted to purchase fire hydrants in the State of Kansas. Two previous Attorney General opinions have been obtained confirming this statement. Unfortunately, this places certain areas within our state at increased risk for loss of property and death due to an inability to adequately fight fires. BETO Junction in Coffey County represents such an example. This area involves two busy truck stops with retail businesses, numerous fuel tankers, and a motel within a concentrated rural setting. In the event of a fire, the ability of firefighters to adequately control and fight the fire is severely compromised.

HB 2528 will allow rural fire districts to purchase fire hydrants as firefighting equipment and contract with rural water districts to obtain an adequate water supply.

I respectfully request your consideration and support of HB 2528.

Signed:

A handwritten signature in black ink, appearing to read 'Jim', written over a faint printed name.

Senator Jim Barnett

JAB/gkp

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Senate Elec & Loc Gov
03-23-04
Attachment 1

STATE OFFICE (SESSION ONLY)
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TOPEKA, KS 66612-1504
785-296-7384
1-800-432-3924
E-MAIL: BARNETT@SENATE.STATE.KS.US

PEGGY LONG-MAST
REPRESENTATIVE, 76TH DISTRICT
765 ROAD 110
EMPORIA, KANSAS 66801
(620) 343-2465

ROOM 446-N CAPITOL BLDG.
TOPEKA, KS 66612
(785) 296-7685



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE-CHAIR: HEALTH & HUMAN SERVICES
MEMBER: UTILITIES
JUDICIARY

**TESTIMONY ON HB 2528
MARCH 23, 2004**

I want to thank you Madam Chair and members of the committee for the opportunity to appear before you today with a bill that will help to make life a little safer, insurance rates a little lower, and things a lot easier for some people in the State of Kansas.

HB 2528 is a bill that deals with allowing fire districts that have the funds to purchase rural fire hydrants the opportunity to do so. Under current statutes, the law does not allow fire districts to spend money on anything that is not deemed to be fire equipment and after appealing to the Attorney General's office twice, the only option seems to be to change the law. The Attorney General's office has interpreted the current law as not including fire hydrants as fire fighting equipment thus excluding hydrants from being something that fire districts can purchase.

HB 2528 will allow individual districts to purchase fire hydrants in areas that currently do not have them and thus allowing businesses and homes in the area lower insurance premiums and making water readily available in case a fire occurs.

This is a simple bill, but it is an important one. Again, I thank you for your time and am anxious for you to hear the compelling testimony from those who will benefit from this. With that, I stand for questions Madam Chair.

*Senate Elec & Loc Gov
03-23-04
Attachment 2*

**Testimony to the
Senate Elections and Local Government Committee
HB 2528
Presented by Patrick T. Lehman
For the Kansas Fire Service Alliance
March 23, 2004**

Thank you Madame Chair and members of the committee. I am Pat Lehman and I represent the Kansas Fire Service Alliance. The Alliance is made up of the Kansas State Firefighters Association, the Kansas State Fire Chiefs Association, and the Kansas State Professional Fire Chiefs Association. On behalf of the Alliance, I am speaking in favor of HB 2528.

HB 2528 is important for authorizing fire districts and townships to use resources to enhance their ability to fight fires effectively. In this case, it allows for the acquisition and installation of fire hydrants within the fire district. It is strictly permissive for all parties involved.

With more houses being built in rural areas that have fire protection from rural fire departments and the greatest need in fighting fires is water, the need is growing for accessible water strategically located throughout the district. HB 2528 will allow two entities to work together to better serve the citizens in their area.

The Kansas Fire Service Alliance supports HB 2528 and we urge the committee to pass the bill favorably. Thank you and I will be glad to address any questions or comments that the committee may have.

Senate Elec & Loc Gov
03-23-04
Attachment 3

**Written Testimony HB 2528 to the
Senate Elections and Local Government Committee
Presented by Bill Walker
Fire Chief Coffey County Fire District #1
March 23, 2004**

Thank you Madame Chair and members of the committee. My name is Bill Walker; I am Fire Chief of Coffey County Fire District #1. It is my honor and privilege to present my written testimony to you today, to express my full support for **House Bill 2528**.

Over the years, the fire service in Kansas, be it full time paid or part time volunteer services, has changed dramatically—from the early days of the “Good Ol’ Boys” system that could save the foundation to the highly skilled and trained professional fire departments that you see across Kansas today.

Another major change in our state has been in the rural areas, where citizens are building large, expensive homes and businesses, which are often located miles away from adequate fire emergency water supplies.

Along with the continuous rapid growth within our rural area is the growth in capability of the rural water districts to supply these residences and businesses with their day to day needs. These water districts often utilize large diameter water lines and high capacity storage towers to supply their customers. The water supplies are available but are often unusable by Fire Departments.

This has created the current circumstances we find ourselves in. As an example, on January 26, 2003, Coffey County Fire District #1 responded to a structure fire at a residence about 12 miles East of Burlington, Kansas.

The homeowner lost his residence and personal property to the fire, mainly because of an inadequate water supply within the general area for fire department use. No hydrants within 12 miles, and any ponds that might have been in the area were frozen over and basically there was no water available.

Coffey County Rural Water District #3 had a water tower located about 1 mile from the fire scene, with **29,000 gallons of water available**, but without any fire hydrant connections.

I’m not saying that we would have saved that home and property with a water supply in the area, but I can assure you that the odds of doing so would have been greatly increased.

As I stated at the beginning, there have been many changes in the fire service, but there is always one thing that will stay the same. To put out a fire, you will always need **trained people, fire trucks and water**.

With the passage of **House Bill 2528**, which is basically the addition of the phrase; “*pay for the acquisition, installation or maintenance of one or more fire hydrants or similar devices for fighting fires, including necessary equipment, services or supplies related thereto. The acquisition, installation or maintenance of any fire hydrant, or other similar device for fighting fires, shall be subject to the mutual agreement of the governing body of the fire district and the governing body of the entity which owns, operates or maintains the water line on which the fire hydrant, or other similar device for fighting fires, is to be installed*”, to the existing Statute **KSA-19-3601a**, and with the cooperation between Rural Fire Districts and Rural Water Districts in Kansas, it will greatly enhance the Fire Service goals and objectives, which are to save lives and property by extinguishing the flames.

To enhance the capabilities of Fire Services and increase the protection of our citizens, I urge your support and passage of **House Bill 2528**.

Thank you.

Senate Elec & Loc Gov
03-23-04
Attachment 4

HOUSE BILL No. 2805

By Committee on Local Government

2-10

10 AN ACT concerning counties; relating to law enforcement.

11

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

13 Section 1. As used in this act:

14 (a) "Agency" means a county law enforcement agency established
15 under the provisions of this act.

16 (b) "County" means Cloud or Lincoln county.

17 (c) "Department" means a county law enforcement department es-
18 tablished under the provisions of this act.

19 (d) "Director" means the superintendent of a county law enforce-
20 ment department appointed under the provisions of this act.

21 (e) "Law enforcement officer" or "county law enforcement officer"
22 means a law enforcement officer who is a member of a county law en-
23 forcement department appointed under the provisions of this act.

24 Sec. 2. The provisions of this act shall apply to any county as defined
25 section 1, and amendments thereto, in which the question of the adoption
26 of the provisions of this act has been submitted to and approved by the
27 qualified electors of the county in the manner provided herein. The board
28 of county commissioners of any county, by resolution adopted not less
29 than 90 days preceding the date fixed for the holding of the general
30 election in November of an even-numbered year, may direct the county
31 election officer to place such proposition on the ballot at the next general
32 election, and the board shall direct its placement on the ballot at such
33 election whenever (1) the governing body of any city located within the
34 county, having a population equal to not less than 25% of the total pop-
35 ulation of such county shall request that the proposition be placed on the
36 ballot, by resolution adopted not less than 90 days preceding the date
37 fixed for the holding of the general election in the month of November
38 of an even-numbered year, or (2) the county election officer shall certify
39 that a petition, requesting that the proposition be placed on the ballot
40 and signed by qualified electors of the county equal in number to not less
41 than 10% of the electors of the county who voted for the office of the
42 secretary of state at the last preceding general election, has been filed in
43 such office not less than 90 days preceding the date fixed for the holding

or the duly elected sheriff as determined by the
qualified electors at the election at which a
proposition to consolidate law enforcement in such
county is adopted

Senate Elec + Loc Gov
03-23-04
Attachment 5

1 of a general election in the month of November of an even-numbered
2 year. Notice of any election held pursuant to this section shall be given
3 in the manner prescribed by K.S.A. 10-120, and amendments thereto.

4 Upon the ballot the proposition shall be stated as follows:

5 "Shall the county of _____ (name of county) adopt the provisions
6 of sections 1 through 21, and amendments thereto, providing for consol-
7 idated law enforcement in certain counties?"

8 If a majority of the votes cast upon such proposition shall be in favor
9 of adopting the act, the provisions thereof shall govern the enforcement
10 of law and the providing of police protection within such county in the
11 manner hereinafter provided.

12 Sec. 3. (a) Subject to the provisions of subsection (b), there is hereby
13 established in all counties adopting the provisions of this act a county law
14 enforcement agency which shall be known as the
15 "_____ county law enforcement agency."
16 (name of county)

17 Each agency shall have seven members who shall be selected in the
18 following manner:

19 (A) One member shall be a member of the board of county commis-
20 sioners of the county, selected by such board of commissioners;

21 (B) one member shall be a resident of the county, to be selected by
22 the board of county commissioners;

23 (C) one member shall be a member of the governing body of the
24 largest city located within the county, selected by such governing body;

25 (D) two members shall be residents of the largest city located within
26 the county, to be selected by the governing body of such city;

27 (E) one member shall be the mayor of the next largest city located
28 within such county, or a member of the governing body of such city,
29 designated by such mayor; and

30 (F) one member shall be the county attorney of such county.

31 The board of county commissioners of the county and the governing
32 body of the two largest cities located within such county shall each meet
33 on the second Monday in January next following the adoption of the
34 provisions of this act and each two years thereafter and shall select and
35 designate the members of their respective bodies and the other appoint-
36 ive members as members of the agency. Appointive members of the
37 agency shall serve for a term of two years, and other members of the
38 agency who are members by virtue of their county or city office shall
39 remain eligible to serve as such only while holding such county or city
40 office. All members of such agency shall take and subscribe to an oath as
41 other county officials, and all vacancies occurring in the membership of
42 the agency shall be filled for the remainder of the unexpired term of the
43 member creating such vacancy in like manner as that provided for the

#

Upon the ballot a second proposition shall be stated as follows:

"If the county of _____ (name of county) elects to consolidate law enforcement, then shall the director of the consolidated law enforcement agency be the duly elected sheriff of the county of _____ (name of county)?"

If a majority of the votes cast upon such second proposition shall be in favor of the proposition, the director of the consolidated law enforcement agency shall be the duly elected sheriff; otherwise the director of the consolidated law enforcement agency shall be selected as provided by law.

unless the director is the duly elected sheriff who shall have a term of four years

1 ments of any kind required or authorized to be signed or executed by the
2 agency. The agency shall cause a proper record to be kept of its
3 proceedings.

4 Sec. 5. The agency shall be responsible for the enforcement of law
5 and the providing of police protection throughout the county and for this
6 purpose is hereby authorized to:

7 (a) [Appoint] and establish the salary and compensation of a law en-
8 forcement director for the county.

9 (b) Authorize and provide for the appointment of such law enforce-
10 ment officers and other personnel as the agency shall deem necessary to
11 carry out the intent of this act.

12 (c) Establish a job classification and merit rating system for law en-
13 forcement officers and provide for the administration thereof.

14 (d) Establish a schedule of salaries for law enforcement officers and
15 other personnel.

16 (e) Hear and affirm or revoke orders of the director providing for the
17 suspension or dismissal of law enforcement officers.

18 (f) Authorize the acquisition and disposition of equipment and sup-
19 plies necessary for the operation of the agency and department.

20 (g) Require the keeping of proper law enforcement records and files
21 by the department.

22 (h) Adopt and certify to the board of county commissioners of the
23 county a budget for the operation of the agency and department.

24 (i) Enter into contracts for and receive moneys from any private or-
25 ganization or agency, the federal government or the state or any political
26 or taxing subdivision thereof on behalf of the county for the use of the
27 agency and department.

28 (j) Receive vehicles, equipment and supplies from the county sheriff's
29 department for the use of the law enforcement department.

30 (k) Sell police vehicles belonging to the law enforcement department
31 and credit the proceeds to a separate fund to be expended for the oper-
32 ation of the county law enforcement agency and department.

33 (l) Enter into contracts with any political or taxing subdivisions or
34 districts of the state located within such county, empowered to enter into
35 a contract for such purpose, for providing special police protection within
36 the boundaries of such political or taxing subdivision or district.

37 (m) Enter into contracts with cities located within the county for the
38 enforcement of specified ordinances or the acquisition of city law en-
39 forcement equipment and property for the use of the department.

40 (n) Adopt rules and regulations necessary for the organization and
41 operation of the agency and department.

42 (o) Perform such other duties as may be provided by law.

3 Sec. 6. (a) There is hereby established in all counties adopting the

(1) Unless the county has decided that the law enforcement director shall be the duly elected sheriff, appoint

(2) Establish the salary and compensation of the law enforcement director.

R

1 be composed of a director, assistant director and such other officers and
 2 personnel as the agency shall provide by resolution. Such department
 3 shall be under the exclusive supervision and control of the director and
 4 no member of the agency shall interfere by individual action with the
 5 operation of the department or the conduct of any of the officers or other
 6 personnel of such department. The director shall be responsible to the
 7 agency for the operation and administration of the department and for
 8 the enforcement of law and providing of police protection within the
 9 county in conformance with rules and regulations adopted by such
 10 agency. The director shall designate and appoint an assistant director who
 11 shall serve in such capacity at the pleasure of the director.

12 (b) Upon request of the director of a county law enforcement de-
 13 partment, the county or district attorney of the county in which such
 14 department is established shall give legal opinions, advice and assistance
 15 to such department upon all matters in which the department is inter-
 16 ested or which relate to the powers or duties of the department or any
 17 officer or employee thereof.

18 Sec. 7. On or before the first day of June next following the appoint-
 19 ment of the first members of such agency, the agency shall appoint a law
 20 enforcement director for such county. Persons appointed to the office of
 21 director shall be citizens of the United States, not less than 25 years of
 22 age, schooled and experienced in law enforcement supervision and shall
 23 not have been convicted of felony under the laws of this state, or any
 24 other state, or of the United States. [The] director shall serve at the plea-
 25 sure of [and shall receive such salary and compensation as shall be fixed
 26 by resolution of] the agency. Before entering upon the duties of office,
 27 the director shall take and subscribe to an oath as other county officials
 28 and shall give bond in such amount and subject to such conditions as shall
 29 be fixed by resolution of the agency. The director shall assist the agency
 30 in the preparation of the budget of the department and shall make such
 31 reports and provide the agency with such other information as it shall
 32 require. The director shall make recommendations to the agency on all
 33 matters concerning the operation of the department.

34 Sec. 8. The director shall appoint such law enforcement officers as
 35 deemed necessary for the proper enforcement of law and the providing
 36 of police protection within the county. All officers regularly appointed
 37 shall be qualified under the provisions of K.S.A. 74-5601 *et seq.*, and
 38 amendments thereto, but an officer may receive a temporary appoint-
 39 ment pending the completion of the requirements for a certificate there-
 40 under. The agency shall determine and fix such additional minimum qual-
 41 ifications to be required of persons appointed as law enforcement officers
 42 as deemed necessary, and may provide for the examination of applicants
 43 therefor. Law enforcement officers appointed under the provisions of this

Unless the county has decided that the law enforcement director shall be the duly elected sheriff, the

The director shall receive such salary and compensation as shall be fixed by resolution of the agency.

Proposed amendment to HB 2805

The following is proposed as substitute language for Section 17.

Sec. 17. County law enforcement agencies established under the provisions of this act are hereby declared to be "eligible employers" as defined by subsection (14) of K.S.A. 74-4902, and amendments thereto, for the purpose of affiliating with the Kansas public employees retirement system established under the provisions of K.S.A. 74-4901 *et seq.*, and amendments thereto. All such agencies shall make application for affiliation with such system in the manner provided by K.S.A. 74-4910, and amendments thereto, to be effective on the first day of January next following the appointment of the first members of such agency. Such application shall cover all county law enforcement officers and employees.

Senate Elec & Loc Gov
03-23-04
Attachment 6

~~HOUSE BILL No. 2525~~

By Representative Long-Mason

1-16

concerning townships; relating to annexation of land in townships by cities; amending K.S.A. 12-520 and repealing the existing section.

12 AN ACT concerning fire protection; authorizing payment for acquisition,
13 installation or maintenance of fire hydrants by fire districts and town-
14 ships; **[relating to fire and explosion investigations;]** amending
15 **[K.S.A. 31-137 and]** K.S.A. 2003 Supp. 12-3915, 19-3601a, 19-3612c,
16 19-3616, 19-3620, 80-1501, 80-1514a, 80-1904, 80-1913, 80-1917 and
17 80-1921 and repealing the existing sections.

18
19 *Be it enacted by the Legislature of the State of Kansas:*

20 **§** Section 1. K.S.A. 2003 Supp. 12-3915 is hereby amended to read as
21 follows: 12-3915. The governing body of any fire district created pursuant
22 to this act shall have the authority to:

23 (a) Levy taxes and special assessments as provided by law. Except as
24 provided by K.S.A. 12-3913, and amendments thereto, the governing
25 body shall fix the amount of the tax, not to exceed 11 mills, to be levied
26 upon all taxable tangible property in the consolidated fire district;

27 (b) enter into contracts;

28 (c) acquire and dispose of real and personal property;

29 (d) acquire, construct, reconstruct, equip, operate, maintain and fur-
30 nish buildings to house fire-fighting equipment;

31 (e) acquire, operate and maintain fire-fighting equipment;

32 (f) issue general obligation bonds and no-fund warrants;

33 (g) pay compensation and salaries to fire district employees;

34 (h) exercise eminent domain;

35 (i) pay the operation and maintenance expenses of the fire district
36 and other expenses legally incurred by the district;

37 (j) select regular employees, provide for their compensation and fur-
38 nish quarters for such employees if deemed desirable;

39 (k) provide for the organization of volunteer members who may be
40 compensated for fighting fires, responding to emergencies or attending
41 meetings;

42 (l) provide special clothing and equipment for such employees and
volunteers; **§**

Senate Elec & Loc Gov
03-23-04
Attachment 7

1 [ship is filed with the township board of such township, within 40 days
 2 after July 1, 1971, the tax levy shall not be made unless first approved as
 3 a question submitted at the next general election or at a special election
 4 called for the purpose of submitting the question. If such a petition is
 5 filed, the township board may cause to be placed on the ballot at the next
 6 general election the question of whether such tax shall be levied. If a
 7 majority of the votes cast and counted at such election are in favor of the
 8 resolution, such governing body may levy the tax authorized herein.

9 [Sec. 12. K.S.A. 31-137 is hereby amended to read as follows:
 10 31-137. The state fire marshal, his deputies of the fire marshal, the
 11 chief of any organized fire department of any municipality,
 12 whether such fire department is regular or volunteer, or any mem-
 13 ber of any such fire department who has been duly authorized by
 14 the chief thereof, shall enforce the provisions of this act and any
 15 rules and regulations adopted pursuant thereto. ~~Said~~ Such persons
 16 are authorized to make any investigations deemed necessary of
 17 any fire or explosion occurring within this state, ~~and they. Such per-~~
 18 ~~sons shall make an investigation of any fire or explosion occurring~~
 19 ~~within this state, or an attempt to cause any fire or explosion within~~
 20 ~~this state, if there is reason to believe that the fire was of an in-~~
 21 ~~cendiary origin or was an attempt to defraud an insurance com-~~
 22 ~~pany. In addition, the chief of any organized fire department of any~~
 23 ~~municipality may designate other qualified persons to conduct such in-~~
 24 ~~vestigations in such municipality. In order to carry out such investi-~~
 25 ~~gations, the state fire marshal and those persons herein designated~~
 26 ~~by or authorized to be designated by this section shall have the right~~
 27 ~~and authority at all times of day or night to enter upon or examine,~~
 28 ~~in accordance with existing laws and regulations, any building or~~
 29 ~~premise premises where any fire or explosion or attempt to cause a~~
 30 ~~fire or explosion shall have has occurred. Every person designated~~
 31 ~~herein Such persons shall make a written report of the findings of~~
 32 ~~any investigation conducted by him pursuant to this section which~~
 33 ~~shall be filed in the office of the state fire marshal.]~~

34 Sec. ~~12~~ [13.] [K.S.A. 31-137 and] K.S.A. 2003 Supp. 12-3915, 19-
 35 3601a, 19-3612e, 19-3616, 19-3620, 80-1501, 80-1514a, 80-1904, 80-
 36 1913, 80-1917 and 80-1921 are hereby repealed.

37 Sec. ~~13~~ [14.] This act shall take effect and be in force from and after
 38 its publication in the statute book.]

See attached insert.

"New Sec. 1. (a) No land located in a township shall be annexed pursuant to subsection (a) (1) of K.S.A. 12-520, and amendments thereto, unless the city adopts a resolution stating its intent to annex such land. Such resolution shall be published at least once in a newspaper of general circulation within the city and in the area sought to be annexed. If within 30 days after the publication of such resolution, a petition requesting the appointment of an annexation review board signed by at least 40% of the landowners in the area sought to be annexed is filed with the city clerk, no land shall be annexed unless such annexation, or portion thereof, is approved by an annexation review board as provided by this section.

(b) The mayor shall convene a review board composed of the following persons:

(1) The mayor of the city desiring to annex such land or the mayor's designee.

(2) A landowner in the area sought to be annexed appointed by majority vote of the landowners in the area sought to be annexed.

(3) The chairperson of the board of county commissioners of the county in which the land sought to be annexed is located or the chairperson's designee.

(c) The review board shall determine whether the proposed annexation is in the public interest and in the best interest of the city, county and other political subdivisions in the area sought to be annexed. The governing bodies of the city, county and other political subdivisions in the area sought to be annexed shall assist the board in making its decision. Such governing bodies shall provide all relevant information and records requested by the review board. In making its determination the review board shall be guided, but not be limited to, by its findings with respect to the following factors:

(1) The immediate and prospective populations of the area to be annexed.

(2) The assessed valuation of the area to be annexed, and its relationship to population.

(3) The history of and prospects for construction of improvements in the area to be annexed.

(4) The needs and possibilities for geographical expansion of the city.

(5) The present and anticipated need for governmental services in the area proposed to be annexed, including but not limited to, water supply, sewage and garbage disposal, zoning, streets and alleys, curbs, sidewalks, police and fire protection, playgrounds, parks and other municipal services, and transportation and drainage.

(6) The relative capabilities of the city, county, and other political subdivisions in the area sought to be annexed to provide or obtain governmental services when needed.

(7) The existence of benefit districts within the area proposed to be annexed, and the impact of annexation upon such districts.

(8) The elimination of isolated unincorporated areas existing without adequate economical governmental services.

(9) The immediate and potential revenues that would be derived by the city as a result of annexation, and their relation to the cost of providing service to the area.

(d) The board shall make its determination either approving or disapproving the annexation, or a portion thereof, within 90 days of the appointment of the first member of the annexation review board. The board specifically shall state its reasons and findings for its determination. Such findings need not include specific data on every finding made, but shall indicate that all factors listed in subsection (c) were considered. A copy of the board's determination shall be filed with the mayor of the city seeking to make such annexation and with the board of county commissioners.

(e) The city may annex the land sought to be annexed to the extent approved by the

annexation review board under subsection (d).

(f) All costs incurred pursuant to this section shall be paid by the city if the annexation is not approved. If the annexation of a part, but not all, of the land sought to be annexed is approved by the board, the city shall pay costs in an amount which is proportionate to the amount approved to be annexed. All costs incurred pursuant to this section shall be paid by the landowners whose land is annexed pursuant to the approval of the board.

(g) This section shall apply only to townships located in the counties of Sedgwick and Shawnee in the state of Kansas.

Sec. 2. K.S.A. 12-520 is hereby amended to read as follows:

12-520. Conditions which permit annexation, ordinance, actions challenging validity.

~~(a) [Except as hereinafter provided, the governing body of any city, by ordinance, may annex land to such city if any one or more of the following conditions exist:~~

~~(1) The land is platted, and some part of the land adjoins the city.~~

~~(2) [The] land is owned by or held in trust for the city or any agency thereof.~~

~~(3) The land adjoins the city and is owned by or held in trust for any governmental unit other than another city, except that no city may annex land owned by a county which has primary use as a county-owned and operated airport, or other aviation related activity or which has primary use as a county owned and operated zoological facility, recreation park or exhibition and sports facility without the express permission of the board of county commissioners of the county.~~

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

~~(5) The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres shall be annexed for this purpose.~~

~~(6) The tract is so situated that 2/3 of any boundary line adjoins the city, except no tract in excess of 21 acres shall be annexed under this condition.~~

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

~~(b) No portion of any unplatted tract of land devoted to agricultural use of 21 acres or more shall be annexed by any city under the authority of this section without the written consent of the owner thereof.~~

~~(c) No city may annex, pursuant to this section, any improvement district incorporated and organized pursuant to K.S.A 19-2753 et seq., and amendments thereto, or any land within such improvement district. The provisions of this subsection shall apply to such improvement districts for which the petition for incorporation and organization was presented on or before January 1, 1987.~~

(d) Subject to the provisions of this section and subsection (e) of K.S.A. 12-520a, and amendments thereto, a city may annex, pursuant to this section, any fire district or any land within such fire district.

(e) Whenever any city annexes any land under the authority of paragraph 2 of subsection (a) which does not adjoin the city, tracts of land adjoining the land so annexed shall not be deemed to be adjoining the city for the purpose of annexation under the authority of this section until the adjoining land or the land so annexed adjoins the remainder of the city by reason of the annexation of the intervening territory.

(f) No city may annex the right-of-way of any highway under the authority of this section unless at the time of the annexation the abutting property upon one or both sides thereof is already within the city or is annexed to the city in the same proceeding.

(g) The governing body of any city by one ordinance may annex one or more separate tracts or lands each of which conforms to any one or more of the foregoing conditions. The invalidity of the annexation of any tract or land in one ordinance shall not affect the validity of the remaining tracts or lands which are annexed by the ordinance and which conform to any one or more of the foregoing conditions.

(h) Any owner of land annexed by a city under the authority of this section, within 30 days next following the publication of the ordinance annexing the land, may maintain an action in the district court of the county in which the land is located challenging the authority of the city to annex the land and the regularity of the proceedings had in connection therewith.

History: L. 1967, ch. 98, § 2; L. 1974, ch. 56, § 4; L. 1980, ch. 62, § 1; L. 1986, ch. 70, § 2; L. 1987, ch. 66, § 2; L. 1993, ch. 147, § 1; July 1.

Subject to the provisions of section 1, and amendments thereto, the

, the reasonableness of the annexation,

The

Sec. 3. K.S.A. 12-520 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

STATE OF KANSAS

ROGER E. TOELKES
REPRESENTATIVE, 53RD DISTRICT
SHAWNEE COUNTY
3811 SE 33 TERR
TOPEKA, KANSAS 66605
(785) 267-7105



COMMITTEE ASSIGNMENTS
ETHICS AND ELECTION
LOCAL GOVERNMENT
TRANSPORTATION
UTILITIES
CHAIRMAN: SHAWNEE COUNTY DELEGATION

STATE CAPITOL BUILDING—ROOM 284-W
TOPEKA, KANSAS 66612-1504
(785) 296-7665

TOPEKA
HOUSE OF
REPRESENTATIVES

March 23, 2004

Madam Chairwoman and Members of Elections and Local Government

I come before you today to support an Annexation Review Board. This is an act concerning annexation relating to the powers and duties of Cities and Counties. The key provision of a Annexation Review Board would deal with the unilateral annexation by a city. It would take a 40% petition of the landowners in the affected area to trigger an Annexation Review Board.

The Review Board would consist of the City Mayor or the Mayor's Designee, a landowner in the area being annexed, the Chairperson of the Board of County Commissioners or their designee.

The Review Board's purpose would be to determine whether the proposed annexation was in the best interest of all.

There has been and continues to be a great deal of land taking in this state. The Counties of Shawnee and Sedgwick have experienced big problems.

In other testimony you will receive from citizens of these areas, you will hear about the land grabbing that has gone on and continues to take place.

Thank you for allowing me to testify and I will stand for questions as you wish.

Senate Elec & Loc Gov
03-23-04
Attachment 8

Mark Lenz
HB 2654
Proponent

Honorable Senators:

Current Kansas statutes allow and perhaps even encourage predatory annexation, taxation without representation, and violation of property rights.

I'd like to show you one example to illustrate what's really going on around several Kansas cities. It is not unique. Many similar situations are occurring around other cities, particularly in Sedgwick and Shawnee counties, but in other counties as well.

The attached map shows the area around Park City, Kansas. The light blue area at the bottom of the map is the current urban residential area that area travelers would recognize as Park City. It is surrounded by several miles of mostly agricultural land. North of 77th Street is the Wichita Greyhound Park, and further north is the Kansas Coliseum. Notice that there are two additional high-population-density, urban residential areas north of 85th Street, colored in green. These are new developments, with houses and streets currently under construction. Now, notice the yellow area mostly north of 93rd Street. This is a rural residential area of approximately 140 existing homes on 5 and 10-acre lots, known as Sunnysdale. I live in this area.

The developer of the green areas needed water and sewer services, and Park City was willing to provide them. However, common sense would tell anyone that the cost of providing these services more than two miles north of the city would be prohibitive. In fact, that is what the city council of Park City told us just four years ago when we asked them about their growth plans.

Notice now the red lines. These lines are the current Park City city limits. The plan is easy to see. Park City extended their city limits northward until they touched Sunnysdale, planning to abuse the state's unilateral annexation laws to eventually annex the entire Sunnysdale area, to help pay for the extension of their services into the area and to position them for commercial developments around the nearby highway interchanges. Notice particularly the very narrow strip colored in purple in the middle of the map. In this area, Park City annexed the easements along I-135 in order to get past large agricultural plots they could not unilaterally annex!

The small area colored in red just south of 93rd street is an area known as the Bole Addition. Park City annexed the Bole Addition in March, 2003, despite the tearful pleadings and protests of 100% of the area residents. The ink wasn't even dry on this annexation before Park City notified the next block of properties to the north that they were to be annexed as well. With financial support from more than 90% of Sunnysdale residents, the Bole Addition successfully overturned their annexation using the only recourse available to them, by suing the city over procedural flaws, only to have Park City annex them again a few days later. Again, their procedure was flawed and another lawsuit is pending, but we're concerned that eventually they may figure out how to annex "correctly" and we'll have no recourse whatsoever.

If the Sunnysdale area were using the services of Park City and gaining benefits from the city, we would agree we should be part of the city. But we are not. We are adequately served by the county and the township. We don't use Park City streets, or parks, or library. We don't shop or dine in Park City. We don't need or want Park City water or sewer services. We don't need their police protection, and they don't have a fire department or schools or even a post office to offer us. Park City offers absolutely nothing we need or want, and we are absolutely no burden to Park City whatsoever, yet under current Kansas law they have the right to annex us and add us to their tax base. We have absolutely no say in the matter unless we can prove procedural flaws in court. Even if we are successful in proving procedural flaws, there is nothing to stop a city from annexing us again.

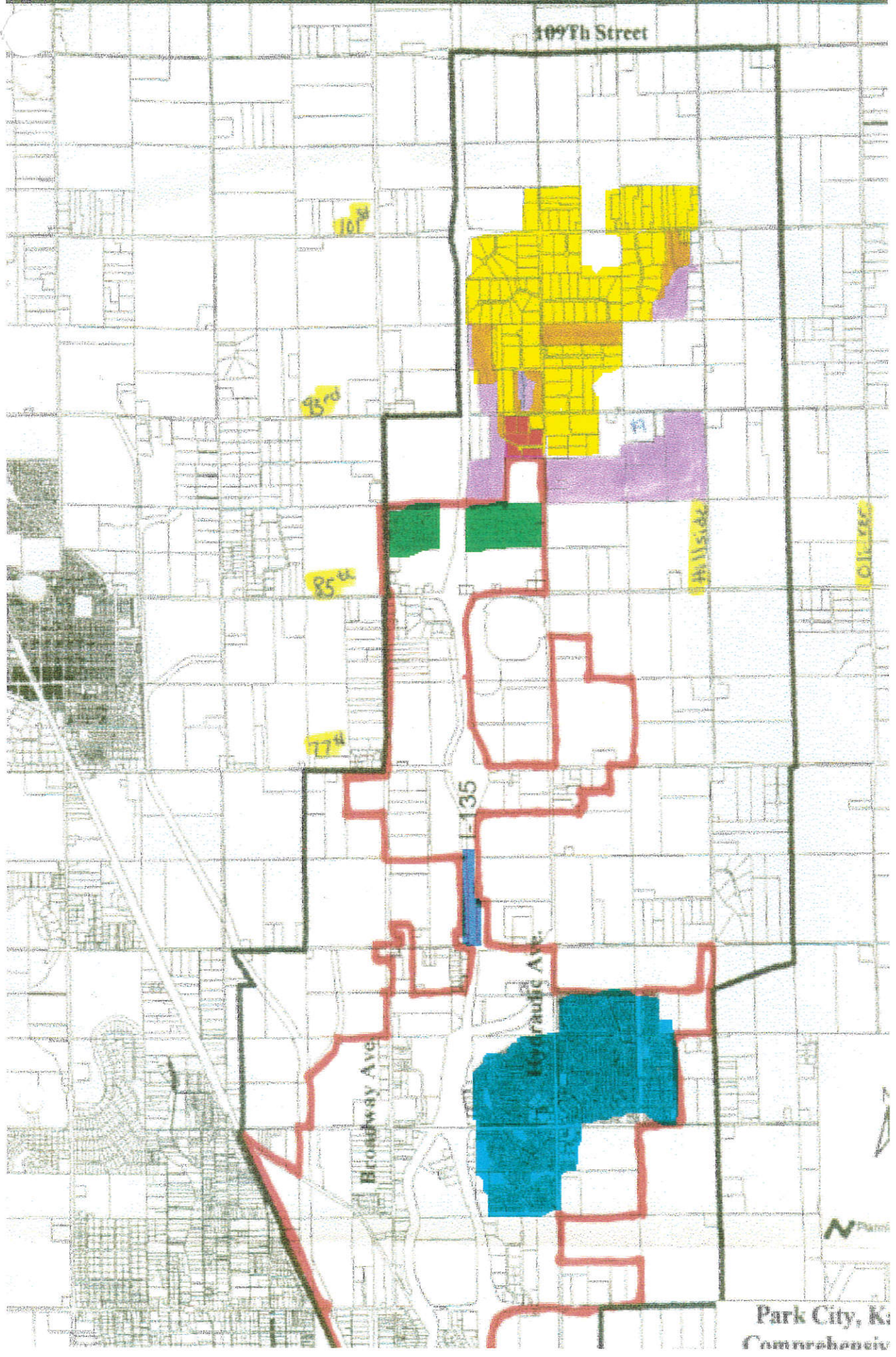
This is taxation without representation. It is a violation of property rights. This type of annexation is predatory and exploitive. A city ought to have to show that the value of services they offer is worth the taxes that will be assessed. A city should not be allowed to annex property miles away from their current residential area just to add to their tax base. Cities should not be allowed to annex narrow strips of land and easements to extend their boundaries. Cities should be held accountable to smart growth -- growth which is welcome and desired. If Park City is allowed to annex Sunnysdale, our township will lose significant tax base and may be forced to dissolve, to the detriment of the entire area.

Kansas and Nebraska are the only two states that still offer citizens no voice in annexation processes. The hearings required by current statutes are a joke and a complete waste of time. Cities conduct the hearings, but all they do is frustrate property owners because the city can still do whatever it wants. Surely we can find a compromise that allows cities to grow reasonably and responsibly yet offers rural property owners some rights. Under current statutes, we have no rights whatsoever.

Governments ought to exist to serve the people, not the other way around.

Thank you.

316-755-2428
2100 E 98th St N
Valley Center, KS 67147
Senate Elec & Loc Gov
03-23-04
Attachment 9



Park City, Kansas
Comprehensive

Testimony
of

Talmer Easley

before the

**Senate Elections and Local Governments Committee
March 23, 2004**

Madame Chair, Respected Committee Members,

I come today to protest that the annexation law as now written creates the situation that this country rose up and rebelled over more than two centuries ago.

One of our most cherished right is to have our say in all the actions of our government, whether directly or indirectly. I feel that we are being threatened by the City of Haysville to annex our neighborhood of about 250 homes without our permission. Last year, we had our say and persuaded a majority of the City council not to annex our land, but this can be reversed at any moment under current law.

I feel that this whole process is unconstitutional. A majority of the homeowners in our neighborhood are adamantly opposed to being annexed, but as we are not residents of Haysville – yet – we have no vote, either direct or indirect in whether our land usage will be taken from us.

Why should the City of Haysville be allowed to just come out and take our land? This process will devalue our land, because the restrictions on land usage such as owning animals will make harder to sell. The City, however, is offering no restitution at all for this loss in value.

It also galls me that the City says they will give us better services. For example, they say they'll give us fire protection. But the fire protection comes from the county department, which is the department that already protects us from fire.

The earliest cry for independence in this country was "No taxation without representation." The Constitution guarantess due process. The current Kansas annexation laws don't. Please change this.

Sincerely,

Talmer Easley
1119 E. 78th South
Haysville, KS 67060
(316) 788-1962

Senate Elec & Loc Gov
03-23-04
Attachment 10

Testimony
of

Joanie Storck
Salem Township Trustee

before the

Senate Elections and Local Governments Committee
March 23, 2004

Madame Chair, Respected Committee Members,

My concern is that there is a total lack of checks and balances in the current law. Not only is there no guarantee that the City Council will even listen to our case, but there is no way, once they have made a decision that lacked the consent of the majority, to challenge that decision in court.

In previous hearings, the best argument the cities have given is that we county residents should have to pay for driving on their streets. The township roads are driven on by city residents daily as they go to lakes, parks, hunting, even to and from their jobs. And they use our roads to dump their trash and their unwanted animals. We don't ask for anything in return.

The cities also argue that giving us the right to vote on annexation will effectively stop the growth of the cities. Forty-seven other states require the consent in some form ... do you really think they've quit growing? I don't think so!

The language of this bill as amended calls for a mediation process. The mediation team is to be composed of the Mayor of the City desiring to annex, a landowner sought to be annexed, and the Chairperson of the Board of County Commissioners. Or each member of the team could appoint a designee. I would have thought that the third person in such a mediation team would be a member of the Township Board.

The consent of the governed is probably the most important founding idea in the history of the U.S. Why is our consent not sought in this process? Change this law to give us that right.

Sincerely,

Joanie Storck
401 W. 89th St. South
Haysville, KS 67060
(316) 524-0318

Senate Elec & Loc Gov
03-23-04

Attachment 11

**Testimony of
Lavonna Benner**

to the
Senate Elections and Local Government Committee
March 23, 2003

Honorable Chair, Committee Members,

Thank you for allowing me the opportunity to tell my story.

I come to ask your support for H.B. 2654.

In January 2004, my land was annexed by the City of Haysville under protest. I own 19 acres. My son and my daughter have built houses on my property, which my family has owned since the 1800s – before Haysville was organized into a city.

We were told that our taxes were going to rise at least 35%.. Unless we want to pay for their services, we are getting nothing. Extending sewer services into my area would cost more than my property is valued. They plan to erect a sewer lift station in my front yard. Current law is that if I owned 21 acres, they couldn't annex me without my consent. My family owned 23 acres until the Turnpike came through and took it by eminent domain. What if our septic tank system goes bad? Will they allow us permits to put in a new septic tank system? Or would they force us to hook onto their sewer service? In that case, the special assessment would be greater than the appraised value of my property.

The City of Haysville will “develop” our area according to a Service Plan in which we have had no say. There is not even any way that we can fight this under current law. The attorney told us that he would be taking our money to no purpose because the laws do not hold the City accountable to us in any way.

Sincerely,

LaVonna Bonner
6962 S. Broadway
Haysville, KS 67060
(316) 524-5610

Senate Elec & Loc Gov
03-23-04

Attachment 12

Proponent for Annexation Amendment

Most people do understand the power Cities have in annexation laws.

We thank you for allowing this opportunity for the annexation amendment to be discussed.

50 to over 100 red shirted concerned citizens have attend several Sedgwick County Legislative forums during the past weeks to present the issues on the need for change in Annexation.

Our last name, Mosteller, is on the addition but it comes from the older generation and we had no input into the platting process.

We bought our land in 1994 for two reasons, one family heritage and two my health.

I had both severe mental and physical problems. I felt better and could walk farther whenever we visited our family on this property.

Because of my condition I was willing to do almost anything to better my health. Since when I just visited this property **I was able to walk a few extra feet without rehabilitating pain.**

In my depressed and compulsive state, we sincerely believed that annexation was something that would be a very long time off since **the city had just authorized the development of the land with water well and septic tanks.**

Between my medical problems and my husband's severe dyslexia, we could not begin to understand, how the current annexation laws provided the cities such a great power over citizens.

I thank God for our land, some good vitamins and other skills I have learned to begin to my improve my health.

Jane Mosteller

Senate Elec & Loc Gov
03-23-04
Attachment 13

Proponent for Annexation Amendment

Most people do understand the power Cities have in annexation laws.

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Jane Mosteller

Exit 39 Neighborhood Proponents of Annexation Amendment

Page 2. 48 States. From a Political Science Paper on Annexation, 2002 by T Allen Hoover “No two states have exactly the same annexation laws, but that Idaho is among only two or three states in not providing for consent” <http://www.tallenhoover.com/annexation.html>

Page 3. Examples of what other States are requiring:

Density requirements,

Reasonable relationship” between increased taxes and benefit,

Itemized fiscal impact statements,

Petition to request an election,

Public informational hearings where questions are ask & answered,

On approved growth plan for several years before annexation,

Incentives to encourage rural areas to seek annexation,

Moratoriums after an unsuccessful attempt,

Best interest of the area to be annex,

Nebraska allows certain cities to cannibalize the smaller ones.

Page 4. Haysville cost comparisons: \$2,801,013.67 for 14 completed improvements to new home addition annexations vs. service plan proposal of \$2,396,842.00 for recent annexation, 16 homes

Page 5. Haysville, “city at large” proposed to pay “0” in Service Plan of newly annexed area and did pay “0” on 13 of the 14 listed improvements. Haysville paid 88% that equals \$179,549.74 for a water supply line to Suncrest Addition/71st, a friendly island annexation.

Page 6. \$2,396,842.00, Itemized, estimated cost per service plan, for 16 homes in new annexation.

Page 7. Haysville authorized the development of Mosteller addition with water wells and septic tanks in 1994. In 2003, while the houses were being built, the City decided to annex. Three recent maps from Wichita Sedgwick County Metropolitan Area Planning Department aka MAPD show area as rural. And not in growth area even in 2030.

Page 8. The MAPD held meeting on “How to increase tax base thru Annexation” They also recommended the idea of **using a mediator to resolve conflicts between cities** in Sedgwick County. **If mediation fails, the Metropolitan Area Planning Commission will make the final decision**

Page 9. January 2004 map from MAPD. **Red bombs indicate areas of potential conflict** between competing cities for our county land. **Valuable court time equals wasted tax dollars.**

The map on page 9, is newest of the **3 different maps**, referred to on page 8, and **proves Haysville still did not have the Mosteller addition in the MAPD land use plan, when it was annexed.**

Summary: We believe Haysville’s proposed cost estimates were excessive. The “City- at- large” paid incentives for friendly annexation. And the City planned our annexation as a way to increase tax base as proposed by MAPD.

We pray for your compassion & mercy towards the victims of this type of annexation in every county. Please support the annexation amendment. Citizens of Kansas need your protection.

Under current statutes, we can only appeal this annexation on technical errors.

Testimony of Jane Mosteller
HB 2654 Wichita

48 States Have Annexation Statutes Providing Protection,

For citizens from certain cities wanting to aggressively dominate surrounding areas.

Kansas & Nebraska are the only states that still allow aggressive, predatory & forced unilateral annexation.

Kansas also allows for several methods of non-aggressive friendly annexation and the proposed amendment will not alter them.

There are 5 different types of annexation, according to "Classifying State Approaches to Annexation" produced by Indiana in 2001. Updates from current state statutes.

Predominate Annexation methods for all 50 states

6 States have Legislative determination: Equals legislative control, several of these states actually have no rural land left to annex.

6 States have judicial determination: Court is one step in the annexation process, using guidelines set by the legislators, however, several states also require a majority election.

10 States have Quasi-legislative determination: Involves the creation of a non-judicial board, however, for most states this is just one step, then the states require majority election.

20 States have popular determination: Right to vote, election, petition, referendums.

2 States have municipal determination: Aggressive, unilateral, city dominated.

6 States have updated laws that allow for the growth of cities and still protect the rights of the people

Recent changes from these 6 states include: 4 More States provide for Consent process

2 More States have strict prerequisite statutes: Indiana has very strict prerequisite statutes, some includes; 3 people per acre, Best interest of landowners in proposed annex area, Citizens can appeal annexation, if prerequisite not applied.

What are our neighbors doing; Colorado, Oklahoma and Missouri all provide for some type of consent process. Nebraska allows some larger cities to consume smaller cities. Reviewing Economic and Census data it is apparent that these 48 other states have found ways to prosper and grow their cities. And still protect the citizens' "Right" to help determine their own future.

Most Cities within Kansas are working with the people and are encouraging friendly annexations. We want to say Thank You for your cordial consideration of your citizens.

NOTE: Taken from a Political Science Paper on Annexation, 2002 by T Allen Hoover I replied that **no two states have exactly the same annexation laws, but that Idaho is among only two or three states in not providing for consent.**

<http://www.tallenhoover.com/annexation.html>

Our committee accumulated this information, to the best of our ability, from numerous studies by several different states and state statutes.

In the spirit of cooperation and a hunger to seek a compromise, we have volunteered our information to Jeff Bridges, City Administrator of Andover and even gave him the names of documents and their web addresses.

We pray for your support on the Annexation Amendment.

Examples of what other States are doing:

Political Science Paper on Annexation 2002, by T Allen Hoover, said **“No two states have exactly the same annexation laws, but that Idaho is among only two or three states in not providing for consent.”**

This means, an overwhelming majority of the states require some type of a voting or consent process.

Following are just a few examples of what other States have done to protect the people in the annexation process

Many states now require detailed **itemized fiscal impact statements** because research has shown that annexation is not always cost effective to the city. They also require a complete fiscal impact report on the township and each resident.

Another, state requires the annexation be denied if there is no **“reasonable relationship”** between the increased taxes and the benefit to the annexed area

This goes along with a growing number of states that require the **best interest of the area to be annex, be considered.**

Public informational hearings, where questions are ask and answered, scheduled before the public Hearing

The area to be annexed must be on the **approved growth plan for several years**

Numerous states have **Density requirements** up to 3 people per acre

Several states allow for **incentives to encourage rural areas to seek annexation.** Prorated property taxes relief for 10-years or free water supply lines

Other states have **Moratoriums for specified number years after an unsuccessful attempt.** Indiana provides for a binding annexation settlement agreement of no attempt for 20 years with 75% percent agreement.

Some states allow for a **petition to request an election** if the citizens desire one

Nebraska solved their annexation disputes with belief in larger cities. They allow certain cities to cannibalize the smaller ones.

INADEQUATE LAWS

SERVICE PLAN CHECKS AND BALANCES

One of the proposed amendments to this bill was to have a mediator.

A Mediator would be the "check and balance" to the service plan quotes.

COST COMPARISON

The following page shows the actual costs of providing services to 14 projects in newly developed additions. Please note the comparison of what those 14 projects cost vs what the City of Haysville has projected for extension of services to the latest annexation.

14 completed Improvements
to new home annexed additions

VS

The estimated cost to provide
services to an established
self-sufficient addition

Total \$2,801,013.67

Total \$2,396,842.00

A BILL NEEDS TO BE PASSED THAT WILL MAKE THE ANNEXING CITY
RESPONSIBLE TO THE CITIZENS THEY ARE TAKING INTO THEIR CITY

Resolution No. 99-21 Water Improvements Phase 2, Southampton Estates	Total Project Cost.....	\$ 20,996.46
	City-at-Large... 0%	
Resolution No. 00-19 Street Improvements Phase2, Southampton Estates	Total Project Cost.....	\$144,866.89
	City-at-Large... 0%	
Resolution No. 00-20 Water Distribution Improvements, Suncrest Addition/71 st St. So.	Total Project Cost.....	\$ 52,929.80
	City-at-Large... 0%	
Resolution No. 00-21 Water Supply Improvements, Suncrest Addition/71 st	Total Project Cost.....	\$204,033.80
	City-at-Large... 88%	
Resolution No.00-28 Sanitary Sewer Improvements Phase 4, Old Oak Estates 2 nd	Total Project Cost.....	\$215,202.93
	City-at-Large... 0%	
Resolution NO. 00-26 Waterline Improvements Phase 4, Old Oak Estates 2 nd	Total Project Cost.....	\$ 73,720.35
	City-at-Large... 0%	
Resolution No. 00-27 Street Improvements Phase 4, Old Oak Estates 2 nd	Total Project Cost.....	\$395,115.44
	City-at-Large... 0%	
Resolution No. 01-16 Sanitary Sewer Improvements, Country Lakes Add.	Total Project Cost.....	\$433,036.87
	City-at-Large... 0%	
Resolution No. 01-22 Water Main Improvements, Country Lakes Add.	Total Project Cost.....	\$ 24,473.79
	City-at-Large... 0%	
Resolution No. 01-23 Waterline Improvements, Country Lakes Add.	Total Project Cost.....	\$177,534.44
	City-at-Large... 0%	
Resolution No. 01-24 Street Improvements, Country Lakes Add.	Total Project Cost.....	\$630,878.47
	City-at-Large... 0%	
Resolution No. 01-25 StormWater Sewer Improvements, Country Lakes Add.	Total Project Cost.....	\$219,606.00
	City-at-Large... 0%	
Resolution No. 01-26 StormWater Drain Improvements, Country Lakes Add.	Total Project Cost.....	\$183,378.10
	City-at-Large... 0%	
Resolution No.01-31 Sanitary Sewer Improvements, First Christian Church Add.	Total Project Cost.....	\$ 25,240.33
	City-at-Large... 0%	
TOTAL OF ABOVE 14 PROJECTS.....		\$2,801,013.67

Haysville Annexation
Haysville, Kansas
West of KTA

SANITARY SEWER IMPROVEMENTS

6/2/2003

QUANTITY	DESCRIPTION	UNIT PRICE	INSTALLATION	AMOUNT	TOTAL
1400 LF	12" Sewer, approx 20' depth	\$74 LF	1.25	\$130,203	
5000 LF	8" Sewer, approx. 16' depth	\$61 LF	1.25	\$380,551	
22 EA	Manholes, 300' spacing	\$5,100 EA	1.20	\$134,640	
600 LF	4" Force Main	\$15 LF	1.20	\$10,800	
1 LS	N. Broadway Lift Station, 100 gpm	\$150,000 LS	1.10	\$165,000	
Sanitary Sewer					\$821,194

WATER DISTRIBUTION SYSTEM IMPROVEMENTS

QUANTITY	DESCRIPTION	UNIT PRICE	INSTALLATION	AMOUNT	TOTAL
1500 LF	12" Water Supply Line	\$30 LF	1.10	\$49,500	
1700 LF	8" Water Supply Line	\$35 LF	1.20	\$71,400	
2 EA	12" Gate Valve	\$1,500 EA	1.00	\$3,000	
2 EA	8" Gate Valve	\$1,000 EA	1.00	\$2,000	
4 EA	Fire Hydrants	\$2,200 EA	1.00	\$8,800	
100 LF	Road Bores	\$150 LF	1.00	\$15,000	
Water Distribution System					\$149,700

STREET AND DRAINAGE IMPROVEMENTS

Description: **Pattie Avenue from 75th Street to 71st Street**

Not in Annexation boundaries

QUANTITY	DESCRIPTION	UNIT PRICE	INSTALLATION	AMOUNT	TOTAL
3800 LF	Asphalt Street w/ Curb and Gutter	\$150 LF	1.10	\$627,000	
Street and Drainage Improvements					\$627,000

Total Construction Estimate	\$1,597,894
Project Costs*	\$798,947
Total Cost	\$2,396,842

*Project costs include contingencies, engineering, legal, fiscal and resident inspection

How Haysville Developed land to Increase Tax Base.

Haysville, authorized the development of land with water well and septic tanks in 1994. In 2003, while the houses were being built, the City decided to annex.

15 brothers and sisters named Mosteller had owned 40 acres of heavily wooded land with thousands majestic old trees across Broadway from Haysville, since the 1950's. Broadway is a major 4-lane highway. Haysville was incorporated in 1952, a few miles away.

This prime real estate had been **on the market for several years**. A brother, Tom Mosteller, had talked with Haysville City officials about the selling the property. Finally the elderly brothers and **sisters needed their money**.

Unable to sell the 40 acres the family decided to have the land platted in several acre lots, with well water, septic tank and a private road.

This lengthy complicated process **included approval from both the City of Haysville and Wichita Sedgwick County Municipal Planning Department**. Which is frequently called the MAPD. This development was done in 1994, just few years ago.

Tom Mosteller even asked again at the planning hearing **if the city is interested in the land, that the family was willing to sell it.**

Today's landowners, believed the area was not developed for annexation, because:

1. The City Of Haysville, had **authorized the development of the land with water well and septic tanks.**
2. The **Wichita Sedgwick County Municipal Area Planning Department had also approved the area for water well and septic tank.**
3. **Wichita Land use guide**, clearly show the Mosteller 3rd edition, marked in the color white, which **denotes rural.**
4. The **Sedgwick County Development Guide** showing 2030 urban service areas, small city growth areas and rural areas, again clearly showed the Mosteller 3rd edition is marked in white, which **denotes rural,**
5. The MAPD provided written documentation stating Wichita has no intention to annex this same area.

October 14, 2003 the City of Haysville held a public hearing 100% of the people who testified, begged not to be annexed. However the desires of the majority of the people were ignored.

In January 2004 we received a brand new map, page 9, from the MAPD showing the Wichita 2030 service area. The small white area on the east side of Haysville at the end of the arrow is Mosteller addition. This newest map clearly showed the area marked as white, which denotes rural.

We believed the MAPD's maps to be correct and trustworthy. Most states have required comprehensive growth plans prior to annexation, so citizens know what to expect when they buy land.

The Wichita Sedgwick County Metropolitan Area Planning Department is often referred to as the MAPD. The MAPD facilitated the meetings that produced the following:

This information was enclosed in Sedgwick County Inter-Municipal Planning Summit II, Notes from Meeting of Saturday, January 17, 2004 at Sedgwick County Extension Office

- MAPD is teaching cities on how to increase tax base thru Annexation, they held a meeting entitled;

Sedgwick County Inter-Municipal Planning Summit Follow-up Maintaining and Enhancing Municipal Tax Base (Annexation) Meeting of Wednesday, January 7, 2004 Ark Valley Lodge. We have not been able to get these minutes dated 1-7-2004.

- **The MAPD first recommended the idea of using a mediator to resolve conflicts between cities in Sedgwick County. If that fails, the
Metropolitan Area Planning Commission
Will make the final decision.**

The following is an excerpt from the minutes of the Sedgwick County Inter-Municipal Planning Summit II, Notes from Meeting of Saturday, January 17, 2004 at Sedgwick County Extension Office – Sunflower Room







Small Cities Discussion Groups: **For a small city with unresolved growth issues or conflicts involving another small city**, the MAPD can provide an independent, unbiased professional planning evaluation on the matter. In the event that the two small cities cannot reach consensus on their inter-municipal growth issues or conflicts, **the County will offer an independent mediator to assist in reaching consensus** (*Costs would be split three ways between the County and the two cities. Independent planning advisory services and mediation personnel are available locally*).

Small City/Wichita Discussion Groups: **For a small city with unresolved growth issues or conflicts involving the City of Wichita**, the County will offer an independent planning consultant to provide an unbiased professional planning evaluation. If consensus cannot be reached, **the County will offer an independent mediator to assist in reaching consensus** (*Costs of an independent planning consultant and/or mediator would be split three ways between the County and the two cities. Independent planning advisory services and mediation personnel are available locally*).

“If mediation fails, then the growth areas in dispute will be taken to the MAPC for their decision on the matter.” End of quote from minutes.
{MAPC equals the Metropolitan Area Planning Commission}

WICHITA & SMALL CITY GROWTH AREAS -- 2003 UPDATE --

Wichita/Sedgwick County
Metropolitan Area Planning Department

-  Wichita Incorporated Area
-  Wichita 2030 Service Area
-  Small City
-  Incorporated Areas
-  Small City Growth Areas
-  Airport Overlay District
-  Conflict or Potential Conflict Areas Within the Next 20 Years



Printed 01/13/04 SMB

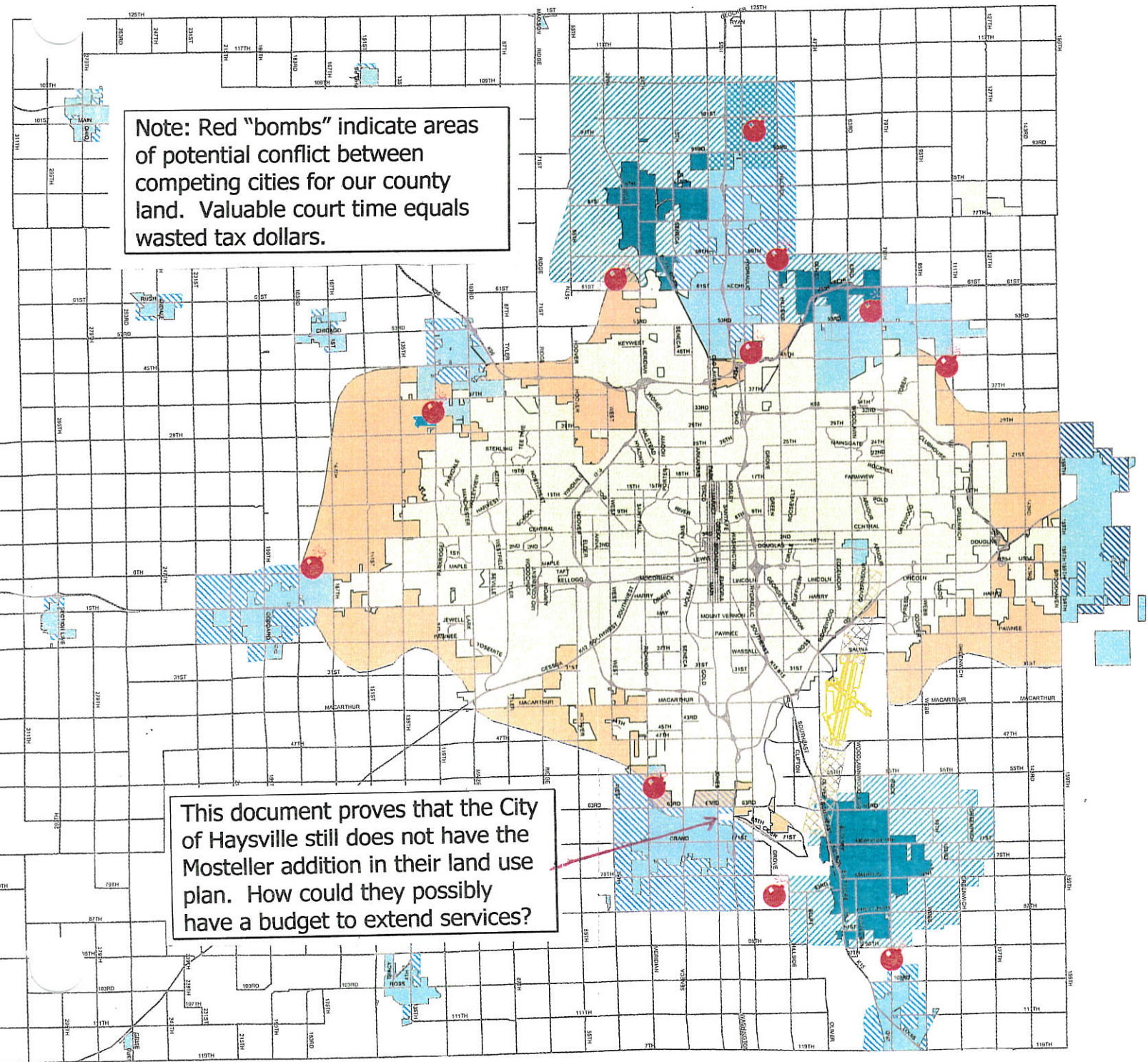
Software: ArcView GIS Ver. 3.1
Hardware: Gateway 476-406
Printer: HP 755CM
Map Data Source:
High School Boundaries,
Provided by: USD
City Limits
Provided by: Sedgwick County GIS

Coordinate System
State Plane: Zone 1951
NAD 83 Spher

It is understood that while the City of Wichita Data Center Geographical Information Systems Department have an indication and reason to believe that there are inaccuracies in information incorporated in the base map, the Data Center GIS personnel make no warranty or representation, either expressed or implied, with respect to the information or data displayed.
Note: Public property represented on this map is not intended to be inclusive.

Note: Red "bombs" indicate areas of potential conflict between competing cities for our county land. Valuable court time equals wasted tax dollars.

This document proves that the City of Haysville still does not have the Mosteller addition in their land use plan. How could they possibly have a budget to extend services?



March 23, 2004 Kansas Senate Election and Local Government Committee HB2212 Annexation Speech

My name is Kelly Wendeln, from Chanute. I have noticed the federal, state and Sedgwick County governments having financial problems, but not the City of Wichita. I have been in Wichita quite a bit over the last several years and the news media there has been very good at reporting every time the city of Wichita annexes more land, which I would estimate to be every two weeks. This has been going on for at least 5 years.

I have a friend who moved to the county 10 years ago, 3 miles outside Wichita. Wichita is now 1½ miles away. At this rate, this citizen will be annexed in 10 years and will be subject to the same many restrictions as city dwellers, which is why many people move to the country in the first place. If you're not from Wichita, you may not recognize some of these issues. Wichita city government wants to get it's sticky fingers into rural citizens' wallets for their money to fund fluff such as neon lights at Central and McLean, Old Town, WaterWalk, Downtown Arena and fast living in Florida, etc., by city bureaucrats on our tax money.

Sedgwick County cities are having an annexation race with each other to gobble-up as much land as they can.

In addition to stopping this predatory annexation and giving landowners the power to stop it, I think it would be only fair to allow for de-annexation, especially where water, sewer and road improvements have not been made or annexation was clearly done for money. Thank you for your time.

Kelly Wendeln
919 S. Highland
Chanute, KS 66720

Senate Elec + Loc Gov
03-23-04
Attachment 14

LYNANNE DEGARMO
1200 Sunnydale Lakes Circle
Valley Center, KS 67147
(316) 755-0675

Dear Senators:

BACKGROUND:

I have deep concerns about the current laws regarding annexation. I admit that over a year ago I really knew little about annexation laws. The hows, the whys, were unknown to me. All of this changed on January 17, 2003 when we received a letter from Park City to the south of us informing us of a resolution to annex our property. Five days later we received another letter from Park City informing us that our property had been excluded from the proposed annexation - due to this city not fully understanding the laws regarding unilateral annexation.

Our neighbors in the Bole Addition who resided in a development which had been "platted" were not so fortunate. Knowing that it was only a matter of time before we received another annexation letter, our small community known as the "Sunnydale Community" banded together. I now am very adept at understanding the laws regarding annexation. I also now understand how those laws as they currently stand are unfair to property owners. I believe that in order for an annexation bill to pass it needs to be more fully developed with an understanding of all the complexities that occur when an area of the county is annexed by a city.

CITY GROWTH PATTERN:

The laws regarding how a city grows need study. These cities themselves feel they need to grow. I understand natural growth of a city. I understand that some properties may go to a city and ask to be annexed in order to receive services from a city. However, annexation of easements in order to grow into an area that has not asked to be annexed it is a concern. I would not call this natural growth. When cities annex properties along an interstate, as Park City has tried, it is obvious that this city is not planning to annex us to become part of their city or out of concern for us, but more for a tax base and a tie up of exits for future large scale residential or commercial development. Let me also state that I have nothing against the residents of Park City, I have many friends that reside within those city limits. Many of them have worked hard within their city, however, many have also expressed to me their dismay in the long range vision of their planning commission and city officials.

UTILITIES:

Currently all of the Sunnydale area is on lagoon or septic systems, Rural Water or they have their own wells. We do not need city services, we have not asked for city services. We all know that although a city may say that you do not have to take services, there is also the fine line in their own city laws that states that when you are within so many feet of their sewer and/or water lines, you must hook on to these utilities. In a cities hurry to get their services to an area for a large development or commercial property farther on, the unlucky homeowner closest to their lines can now be forced to hook on and incur more expenses.....and why? Because we have no homeowners rights when it comes to cities rights. More cost to the property owner that didn't need or want to be annexed in the first place.

ZONING:

Currently we are zoned rural residential. Most of the homes in the Sunnydale Community are on at least 5 acres or more. We have a different lifestyle than people whose homes are built in a city on a city sized lot. Cities like to tout their "grandfather clause." They insist that you may maintain the lifestyle, with animals, hobbies, etc. just as you now have them. However, you must look at the fine print. Yes, we may retain our lifestyle, however, when we sell our property, the next homeowner must abide by the city laws - the new homeowner is not grandfathered in. If someone is looking to purchase your property and sees that you have a nice horse barn, what prospective buyer in their right mind would pay for a horse barn that you could not put a horse in??? Now, we've lost money on the resale value of our property! Last week, I was notified that a home for sale in the Sunnydale area finally had a buyer. This home is ~~approximately 5 years old and had an asking sale price of +\$200,000. It is a beautiful home located on five acres. The~~ prospective owners asked if horses were allowed. Their dream was to buy the beautiful home and build a nice horse barn for horses. Yes, horses are currently allowed - however, the current owners felt they needed to tell them about Park City's future annexation plans and "grandfather clause." Park City was contacted and yes indeed, they could have horses as long as they had the horses and barn before annexation. However, once they - in turn - sold their home to someone else, the new owners could not have horses. Needless to say, the prospective owner backed out of the deal

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03-23-04
Attachment 15

- they were not going to loose money on the value of a horse barn.

With the increase in property taxes something may have to go anyway - do I tell my children that we may need to cut their small animal 4-H projects due to the fact that the feed bill money may need to be used to pay the increase of over \$600 in property taxes that we will incur on top of what we already pay? More cost to the property owner that didn't need or want to be annexed in the first place!

RIGHTS OF PROPERTY OWNERS:

This is the concern that deep, down really bothers me. If I am able, I always vote, whether it be for a Presidential election or a special school bond vote. I vote....I vote because if the President I vote for doesn't make me very happy, I can say to myself...well maybe I should have voted for the other one. If the person I voted into office does great, I can say...I picked the right one.

If a school bond election means that the school buildings will provide a better educational setting, I can say...I know that it means I will pay a little more in taxes, but I can see where it will help our children succeed. Or, I can say "I vote for that school bond," what are you doing with our money?

I have some ownership in the outcome of my voting privledge. In the current annexation laws, the property owner has no voting rights whatsoever. The city sends you a letter telling you what date and time you can appear for a hearing on your property. The people who will sit in the judgement seat at said hearing are the people of that cities City Counsel. These city Council members listen to resident's pleas to not annex, then the vote is called. This is a hoot - you would never have been sent the letter in the first place if the majority of the council members weren't already planning to vote for an annexation.

How unfair!.....you don't get to exercise your voting rights in putting these city council people in office. You don't get to vote for them, you don't get to vote for the other guy to try and keep them out. You are not allowed to vote due to the fact that you aren't part of their city, but they get to vote on what to do with your property!!!

If we are not allowed to vote, by all means please have a state mandated committee that gives the owners some voice in the future of their property. They way annexation is currently done is un-American! We are one of only two states with such out-of-date annexation laws.

FRUSTRATION:

Can you imagine the frustration that our area has been dealing with for over a year. We were just a quiet little community that didn't complain about our roads, our water, our lagoons or septic sytems, or our sheriff's department. Now we have had to band together for our own rights as citizens.

So much in fact, that we as the Sunnydale community did the only thing we could do. Although we didn't want or need to be part of a town at this time, we followed process allowed in the current Kansas statues and took over 123 Consents for Annexation to Valley Center. We have identified with this town forever, we shop at the stores, drives on the street (I personally drive on these roads approximately 6 out of 7 days a week), check out books from their library, use their swimming pool, volunteer in the Valley Center Schools, etc.

They have agreed to our concerns about the townships retaining the maintenance of our roads, they have agreed to leave our zoning as it currently stands with no grandfather clause, they have agreed to treat us like people instead of as pawn in a cities dream growth agenda. This was the only right that we felt we could use. If we must be annexed, if we must bear the burden of increased property taxes, than we should have the right to choose what town we will be part of. Please change the annexation laws, no citizens should have to go through what we have gone through in order to have a voice in the matter of our own properties.

Thank you. Please do not hesitate to contact me with any questions you may have. I can be reached at (316) 755-0675 or e-mail to degacres@swbell.net

Sincerely,

Lynanne DeGarmo

March 22, 2004

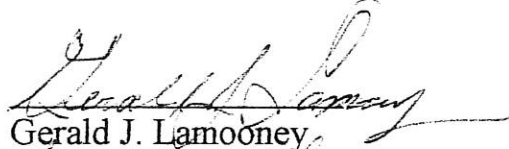
To The Kansas Senate

Testimony of Homeowners

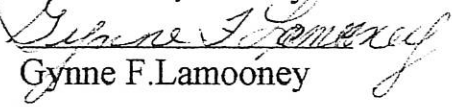
We believe we are being denied our constitutional rights.

Rights to vote on annexation offering nothing in return for our tax dollars.

Gerald & Gynne Lamooney of Salem Township.



Gerald J. Lamooney



Gynne F. Lamooney

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Attachment 16

HB2654

Cathy Byers

6928 So. Broadway

Haysville, Kansas 67060

316-529-3598 thebyersbunch@peoplepc.com

Exit 39 Neighborhood Association of Haysville, Kansas

- **My personal story on the annexation**

My family and I lived in Riverside Township. We were expecting our second child so decided it was time to buy a bigger home. Because we wanted our children to go to Haysville schools, we bought a home in the City of Haysville. Within one year we were ready to move. We started looking for land and found this land that was still Haysville schools but not the City of Haysville and also we were back in Riverside township, which made us very happy. When we looked at Haysville growth plan they had no indication that they planned to expand to this land. Also the developer of this land, Tom Mosteller told us he had contacted the City of Haysville about this land and they **WERE NOT INTERESTED!** Within one month of moving in to our newly built home we received a notice that they were going to try to annex. We chose not to live in Haysville and that choice was completely taken away from us, with no regards to our feelings.

- **How much it will cost per home**

It will cost approximately \$133,000 per home to obtain the services Haysville has in the service plan. Basically that makes my two year old home worthless, because no potential buyer would want that cost in specials added on to the price of our home. And there are no provisions that state that one day Haysville might force us to take those services because no permits will be issued for the well or septic repair.

- **We have NO CIVIL RIGHTS and no laws to protect us the homeowner**

I am very disillusioned by the whole political arena.

My husband and I both feel that our rights were completely violated by this annexation. When I voted it was because I felt they would protect me, my family and my civil rights, but that hasn't been the case. Hopefully there will be bill that gets passed that will protect the rural homeowners. Because if the annexations keep going the way they have been across Kansas, soon there will be no rural landowners.

**Please give us back the right to choose
where we live!!!**

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March 22, 2004

To The Kansas Senate

PLEASE GIVE US A VOICE

Testimony of Homeowners

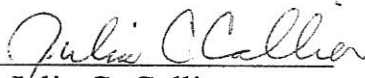
Cities lack of compassion for the hardship they would inflict on the area elderly and low income families.

We believe we are being denied our constitutional rights.

Rights to vote on annexation offering nothing in return for our tax dollars.

Families that have established business with animals and animals for pleasure will no longer be able to have them .

**Julia C. Callier
7555 S. Pattie
Haysville, KS 67060**


Julia C. Callier

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March 22, 2004

To The Kansas Senate

Testimony of Homeowners

We believe we are being denied our constitutional rights.

Rights to vote on annexation offering nothing in return for our tax dollars.

**Adraine E. Baker
426 W. Hazel Ct.
Wichita, KS 67217**


Adraine E. Baker

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Attachment 19

To Members of the Committee:

Please support the annexation amendment

We are sending this brief message to ask for your support in developing a more equitable set of laws that deal with annexation issues in the State of Kansas. As it now stands those who live in rural areas are at the complete mercy of predatory cities—they have no voice, they cannot vote in city council meetings, they cannot vote on whether or not they wish to be annexed, and they cannot appeal any decisions that a city might make. This is unfair and corrupt. Further, ***it is abundantly clear that some cities seriously abuse the annexation process and go way beyond the intent of existing law.*** In some cases a strong and aggressive personality manages to get a key staff position in a city and the citizen city council tends to defer to him (her) on virtually all issues. The citizen city council members may not be well versed in legal matters, they likely hold full time jobs, and they have little time to spend on details. As a result a non-elected person assumes enormous power to pursue personal agendas. This is not good and it is precisely this kind of thing that leads to big problems

While the issue is complex, it is clear (and documented) that Kansas is out of step with nearly all of the other 50 states. In fact, *Kansas is only one of two or three states that has unfair, outdated, and inappropriate annexation laws that permit the abuse of rural residents by cities.* Cities must be made to understand that they cannot run roughshod over rural residents and make obscene and blatant land grabs. Kansas desperately needs to put in place a more equitable way for dealing with these issues. As indicated above a central issue is the constitutionally guaranteed right to vote, which clearly is violated when unilateral annexations occur. Again, those living in an area proposed for annexation have absolutely no vote or representation in the matter and are at the complete mercy of the annexing city. **This is wrong. It goes against almost every principle of life in America.**

We understand that some cities feel a need to grow, often for unclear reasons, but at the same time, **citizens should have the right to representation.** If a city wishes to annex an area, it **should be incumbent on the city to make it advantageous to be annexed and there should be a clear and present reason for such action** that goes well beyond the simple expedient of increasing a city tax base. Predatory, unilateral land grabs of the type that are being experienced in Sedgwick County simply should not be permitted, especially when they clearly violate the intent of annexation law. This must be brought under control in some fashion that provides input into the process by the parties being annexed. As things now stand they are allowed no input whatsoever. This is wrong.

In Cowley County a group of about 300 incorporated recently and formed Kansas's newest town--called Parkerfield--to avoid being annexed by Ark City. So this is clearly not just a Sedgwick/Shawnee county issue. We suspect that it is

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only a matter of time until these issues start to become important elsewhere. For example, we cannot imagine that problems are not going to surface sooner or later out in Ford county. We want the legislature to be proactive on the issue and deal with it before things reach the flash point like they have in Sedgwick County.

We know there is concern about unintended consequences. However, it is hard to see how a change of the type proposed recently in which annexation disputes are settled by a mediation board would be a disservice to the remaining counties in the state. **Annexations that are not abusive and which do not violate the spirit of the law would not be hindered at all by having a review board pass judgment on the matter.** If a city wants to annex an area let them sit down with the residents and discuss the issue and come to terms on a friendly basis. A review board would help insure that this would happen. What everyone wants and deserves is a voice in the process. I would think that the citizens of all counties would like to feel that they have a voice in decisions that affect their way of life.

You were elected to your current position by the vote of your constituents. We doubt that you would sit back and accept having your position filled in some totalitarian fashion by an eight hundred pound gorilla instead of by the vote of your constituents. When it comes to annexation, many rural citizens are currently in that position—they stand in the shadow of an eight hundred pound gorilla and there is no legal recourse available that permits them to move out of the shadow.

Suffice it to say that a very compelling case can be made for changing the law and we earnestly seek your support in this matter. **We are a group of citizens who do not enjoy the services of a powerful lobbying group to promote our cause. As our elected representatives you are our lobby.** You have the power to correct obvious inequities that affect your constituents. It is extremely difficult to imagine any sort of rational democratic argument that could be advanced in support of maintaining current annexation law. **Please support change in Kansas's annexation law.**

Thank you for your support.

Jack and Margaret McCormick

WHITNEY B. DAMRON, P.A.
800 SW JACKSON STREET, SUITE 1100
TOPEKA, KANSAS 66612-2205
(785) 354-1354 ♦ 354-8092 (FAX)
E-MAIL: WBDAMRON@aol.com

TESTIMONY

TO: The Honorable Barbara Allen, Chair
And Members Of The
Senate Committee on Elections and Local Government

FROM: Whitney Damron/Kathy Damron
On Behalf Of The
City of Topeka

RE: Opposition to HB 2654 – Annexation by Cities

DATE: March 23, 2004

Senator Allen and Members of the Senate Committee on Elections and Local Government:

Included with this cover letter you will find copies of testimony presented to the House Local Government Committee in opposition to HB 2654 during hearings held on that bill earlier in the session.

Attached you will find copies of remarks from Topeka Mayor James McClinton, Topeka City Councilwoman Lisa Stubbs and a resolution adopted by the City of Topeka in February by the City Council in opposition to this legislation.

This Committee and Members of the Kansas Legislature are very familiar with recent attempts to amend unilateral annexation laws in our state. Legislation adopted last year that was amended to only apply to the City of Topeka was vetoed by the Governor and further attempts to adopt limitations on unilateral annexation in the House have been rejected time and time again this session both in the House Local Government Committee and on the House floor.

On behalf of the City of Topeka, we respectfully request this Committee to reject efforts to impose these limitations on our Cities.

Thank you.

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03-23-04
Attachment 21



CITY OF TOPEKA

James A. McClinton, Mayor
215 S.E. 7th Street, Room 352
Topeka, Kansas 66603
Phone 785-368-3895
Fax Number 785-368-3850

**TESTIMONY TO THE HOUSE LOCAL
GOVERNMENT COMMITTEE RE: HB 2654
FEBRUARY 12, 2004**

The annexation laws of Kansas are intended to provide cities with a process that allows them to grow properly; to enable cities to plan and provide public services to their residents, such as streets, water, and sewer; and to ensure that persons living immediately outside the city, who receive the benefit of city services, contribute to the cost of those services.

Annexation takes many forms, but there are two general categories: consensual and non consensual. When a property owner consents to annexation, usually because he or she desires a city service available only from the immediately adjacent city, state law allows a city to annex by the enactment of an appropriate ordinance. There are no hearings held or plans developed. The property owner wants to be part of the city and the city obliges this desire. Annexation pursuant to a "consent to annex" is the fulfillment of a contract between the property owner and the city.

Nonconsensual annexation, on the other hand, generally occurs when a city recognizes the need to plan and build the infrastructure that will allow an urban area to thrive. This gives rise to the natural conflict between many residents who live immediately outside a city who want to continue to receive urban services without the perceived tax burden associated with these services, and a city that proposes to expand its borders in order to provide these services to those who need and should pay for them. To address these competing interests in an equitable manner, the Kansas legislature enacted laws that provide for a number of procedural criteria for a city governing body or county commission to meet when annexation is proposed.

When a City decides that it should consider the expansion of its boundaries to encompass areas for which there is no consent to annex, it is required by statute to prepare a plan for extending its services to its proposed new residents and businesses.



CITY OF TOPEKA

City Council
215 S.E. 7th St. Room 255
Topeka, Kansas 66603
Phone 785-368-3710

TO: Senator Jene Vickrey, Chair
House Local Government Committee

FROM: Lisa Stubbs
Topeka City Council

DATE: February 12, 2004

RE: HB 2654

Honorable Mr. Chairman and Members of the House Local Government Committee, thank you for the opportunity to speak with you today. My name is Lisa Stubbs and I am a current member of the Topeka City Council.

Our cities are much of the economic driving force in Kansas -- the engine that drives the train, so to speak. Much of our needed expansion of the tax base in Kansas will come from this engine, giving you the opportunity to reduce the tax burden on our citizens or give additional services. We will grow our tax base by expanding current industry or by bringing in new business to our state. Much of this expansion is made possible by the urbanized infrastructure that is available in our cities or can be available if our cities are able to plan and grow for the future. Now more than ever, Kansas needs to allow these economic drivers the ability to grow and expand as efficiently as possible. Efficiency can only be gained by having the ability to plan for the future growth and infrastructure needs over a significant period of time because of the extremely high price tag associated with it. For cities, millions of tax dollars are spent in order to serve growing areas with water, sewer, utilities, high tech capabilities and roads. Without the expectation that we will also have some degree of certainty that these areas will be part of our tax base, these services simply won't be provided. Therefore, our ability to attract new businesses will be in jeopardy. Growth that is not well planned is inherently less efficient, thereby wasting precious tax dollars. Kansas needs to grow smarter and better than the rest of the country if we hope to be competitive with other states.

The current law gives a well thought out balance to the needs of urban vs. rural. There is much wisdom in the current provisions that do not allow for a careless process for cities to annex properties on their borders. Because of this, I ask you to oppose HB 2654 and to not be part of the process to derail the success of our cities.

This plan is subject to review, debate and criticism in a public hearing before either the city governing body or the county commission (depending on what is being considered for annexation). KSA 12-520 allows a city governing body to make the annexation decision under certain circumstances (unilateral annexation). KSA 12-521 requires county commission action when a city is not permitted to act unilaterally. In either case, the decision to annex or not annex is subject to district court review.

The implementation of the service extension plan is subject to review by the county commissioners five years after the annexation is approved. If a city has failed to extend its services as planned, a commission may consider the de-annexation of the area if services aren't provided within the next two and one half years.

House Bill 2654 would significantly change this annexation process and substantially impair the ability of a city to grow by, in effect, eliminating unilateral annexation. If approved and allowed to become law, HB 2654 will have the following negative impact:

- It will require 60% of individuals residing in an area proposed for unilateral annexation by a city to vote in favor of the annexation before the annexation can proceed, despite the fact that these individuals have already been given the opportunity to comment at a public hearing and seek judicial review of the City's decision.
- This voting requirement would apply even when the affected property owners had contractually consented to annexation as a condition for receiving city services, thus nullifying a contract entered into by cities in good faith..
- The voting requirement would restrict or eliminate much development outside city limits in Kansas by reducing the advisability of a city extending water and sewer services to these developments, and
- HB 2654 would also require that a City provide planned services to an annexed area within one year of its annexation, instead of the current five year requirement provided by Kansas law. This despite the reality that planning, design and

construction requirements for infrastructure improvements require significantly more than one year to complete.

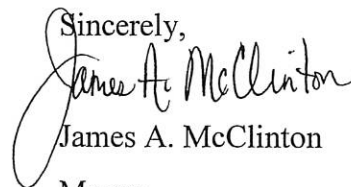
- Finally, by requiring a one year deadline for the provision of services to newly annexed areas, HB 2654 would make the annexation of territories requiring significant infrastructure improvements virtually impossible.

The City of Topeka City Council has expressed its strong opposition to HB 2654 by the enactment of City of Topeka Resolution 7442, which I have distributed along with these comments. HB 2654 is ill-advised legislation intended to end the growth of cities and the orderly and timely extension of city services to those who wish or need to become part of a city. It is yet another of what has recently been an annual effort to “protect” those who receive the benefit of city services without paying for them, who wish to continue to be identified with a city without ever being fully contributing residents of a city. If the State of Kansas is to prosper it must do so through its urban centers. If cities, as urban centers, can’t grow because of impediments such as HB 2654, then it is likely the State of Kansas will not grow either.

In summary, the end result of the passage of HB 2654 would be an end to orderly growth of cities in Kansas because:

- No annexation would occur in undeveloped areas due to the inability of cities to meet the one-year construction deadline, and
- No annexation would occur in already developed fringe areas because of the 60% requirement and the legislative reformation of contracted-for consents.

The City of Topeka asks that you reject HB 2654.

Sincerely,

James A. McClinton
Mayor

1 RESOLUTION NO. 7442

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4 A RESOLUTION introduced by Mayor James A. McClinton expressing the opposition
5 of the City of Topeka to House Bill 2654 concerning the annexation
6 authority of cities in Kansas.

7 WHEREAS, House Bill (HB) 2654 is under consideration by the State of Kansas
8 House Local Government Committee; and

9 WHEREAS, HB 2654 would require sixty percent (60%) of individuals residing in an
10 area proposed for unilateral annexation by a city to vote in favor of the annexation before
11 the annexation could proceed; and

12 WHEREAS, the voting requirement would apply even when the affected property
13 owners had contractually consented to annexation as a condition for receiving city
14 services; and

15 WHEREAS, the voting requirement of HB 2654 would restrict or eliminate much
16 development outside city limits in Kansas by eliminating the contractual consideration
17 given to a city for extending water and sewer services to these developments; and

18 WHEREAS, HB 2654 would also require that a city provide planned services and
19 improvements to an annexed area within one (1) year of its annexation, instead of the
20 current five (5) year requirement provided by Kansas law; and

21 WHEREAS, planning, design and construction requirements for infrastructure
22 improvements for newly annexed areas generally require significantly more than one (1)
23 year to complete; and

24 WHEREAS, by requiring a one (1) year deadline for the provision of services to
25 newly annexed areas, HB 2654 would make the annexation of territories requiring
26 infrastructure improvements very difficult if not impossible; and

27 WHEREAS, HB 2654 is a transparent effort by its sponsors to end all unilateral
28 annexations in Kansas.

29 NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Topeka,
30 Kansas that the City of Topeka strongly opposes HB 2654 as an attempt to end all
31 unilateral annexations and forever change the ways cities are able to expand and grow.

32 ADOPTED and APPROVED by the City Council FEB 10 2004.

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CITY OF TOPEKA, KANSAS

James A. McClinton
James A. McClinton, Mayor

ATTEST:

Iris E. Walker
Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE 2/10/04 BY [Signature]