

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:40 a.m. on Thursday, March 3, 2005, in Room 313-S of the Capitol.

All members were present except:
Senator James Barnett (E)

Committee staff present:
Athena Andaya, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Dee Woodson, Committee Secretary

Conferees appearing before the committee:
Mayor James McClinton, Topeka
David Thurbon, Director of Planning, Topeka
Don Moler, Executive Director, League of Kansas Municipalities
Randall Allen, Kansas Association of Counties
Allyn Lockner, Topeka resident
Ernest Mosher, Topeka resident
Terry Holdren, Kansas Farm Bureau
Paul Degener, Topeka resident
Randy Rogers, Kansas County Officials Association and Coffey County Sheriff (written)
Representative Harold Lane (written)
Vic Miller, Shawnee County Commissioner
Representative Ann Mah (written)

Others attending:
See attached list.

SB 262 - City and county consolidation

HB 2083 - Consolidation of Topeka and Shawnee County

Chairman Brungardt opened the hearings on **SB 262** and **HB 2083**. He asked the Revisor to give a brief overview of the two bills and explain the differences in the proposed legislation.

The Revisor explained that **SB 262** was a state-wide application, whereas **HB 2083** was limited to Topeka and Shawnee County; cities of Auburn, Rossville, Silver Lake and Willard were excluded. **SB 262** would enact the Efficiency in Local Government Act, which would allow the County Commissioners and governing body of a city to create a reorganization study committee to prepare a plan to address reorganization of the city and county. The voters of the county vote on the Joint Resolution; if approved by a majority of the voters countywide, the commission is formed as provided in the Joint Resolution. The study commission receives only expenses and may hire an executive director, and a tax not to exceed one mil may be levied to pay costs of the commission. The plan developed by the commission is submitted to the voters, and if approved by a majority of the voters countywide, the plan is adopted. If the voters of any city vote against the plan, that city is not part of the consolidation.

The Revisor said **HB 2083** would establish a five member consolidation commission for Topeka and Shawnee County, within ten days after the effective date of the act, to prepare a plan for the consolidation of all or part of city and county governmental functions. The commission receives compensation expenses and shall hire an executive director, who may hire staff. Before any plan of consolidation could be implemented, it must be approved by a dual majority of those voting within the City of Topeka and those living outside the city. It would also provide for a moratorium on the unilateral annexation powers of the City of Topeka pending the outcome of the consolidation election.

Senator Hensley asked the Revisor to clarify in **SB 262** how the commission would be appointed, and who makes those appointments. The Revisor responded that would be determined by the Joint Resolution that is adopted by the county and the city. It is not specified in the legislation, and they could in fact provide

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:40 a.m. on March 3, 2005 in Room 231-N of the Capitol.

for the commission to be elected if that was the desire.

Senator Hensley inquired relative to the same question, how the appointments would be done in **HB 2083**. The Revisor said the **HB 2083** specifies who would be appointed to the Commission. The bill calls for the Governor, President and Minority Leader of the Senate, Speaker and Minority Leader of the House to each appoint a member to the Commission. The Governor's appointee would serve as Chair of the Commission. She added that there were some limitations such as not more than three members can be of the same political party, no elected or appointed official or paid employee of the cities in Shawnee County or the county itself shall serve on the Commission, and members of the commission must be Shawnee County residents.

Senator Hensley requested the Revisor to explain the annexation provision in **HB 2083**. The Revisor clarified that until the final plan is presented for approval by the voters, the city cannot initiate annexation prior to that time.

Senator Brownlee asked the Chairman if the Revisor could furnish the Committee a side-by-side comparison of the two bills. The Chairman requested the Revisor to develop a comparison of the two bills and the major points of each.

Chairman Brungardt announced that due to the large number of conferees appearing to speak on the two bills that there would be a limitation on time for each conferee, and requested the speakers to be mindful of their speaking time as well as being respectful to other conferee's time. He asked that the speakers be concise as possible in order to have some time for questions and answers.

Mayor James McClinton, Topeka, testified in support of both **SB 262** and **HB 2083** on behalf of the City of Topeka. He said the City of Topeka has been vocal with its concerns over several provisions of **HB 2083** including the dual majority voting which diminishes the voting status and power of Topeka voters. It greatly reduces the likelihood of a meaningful study and subsequent adoption of any type of consolidation in Shawnee County. He reminded the Committee that non-Topeka citizens of Shawnee county voted overwhelmingly last fall to not consider the consolidation legislation before the Committee. He stated that the City of Topeka dislikes the unilateral annexation moratorium provision of **HB 2083**, and pointed out that Topeka has not utilized non-consensual unilateral annexation in more than fifteen years. Topeka's growth has occurred primarily through developer requested annexations and some small county commission approved annexations. (Attachment 1)

Mayor McClinton stated that Topeka remained very concerned about the selection of the Consolidation Commission appointees. Since consolidation is a statewide concern, the City believes the Governor should appoint members to the Commission rather than local representatives. A consolidation study commission should do its work without local political influence or pressure. A successful precedent was established by the Governor in selecting the Wyandotte County Consolidation Commission, and the City of Topeka does not see the need to change that precedent. He added that over the past several decades the growth in Shawnee County has occurred not within the city limits or in the rural areas, but immediately adjacent to the city limits of Topeka. The 30,000 people living in urban environments located outside the city but within three miles of the Topeka city limits enjoy all the benefits of living near a city, but have almost none of the obligations that support those benefits.

Mayor McClinton concluded by stating the City of Topeka prefers the general consolidation language found in **SB 262**, as it provides a framework for the study and possible implementation of consolidation of government that stands the greatest chance of success. It is not handicapped by the political pressures and personalities of Shawnee county and Topeka. He introduced, David Thurbon, the City's Planning Director, to describe the situation which has been created by the increased growth of the surrounding urban areas of Topeka with the use of maps and diagrams. The visuals were attached to Mayor McClinton's written testimony.

Mr. Thurbon showed colored maps of current trends outlining the three mile boundary area surrounding the city limits of Topeka. The maps included, according to the 2000 Census, were by Median Household

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:40 a.m. on March 3, 2005 in Room 231-N of the Capitol.

Income by Block Group, Median Value of Owner Occupied Houses by Block Group, Low-Moderate Income (LMI) Percentages by Block Group, and 1990-2004 Residential Building Permits and Demolitions. He explained the color coding as depicted on the maps, and said the maps demonstrate that the lower income in the central city area bears 70% of the city budget or is paid for by city property owners. The LMI map showed the percentages by Block Groups in the city, and determines what percent of the people living in the Block Groups meet the Housing and Urban Development criteria of low to moderate income. He talked about the Residential Building Permits and Demolitions map which clearly demonstrated the trend of moving out from the central city area. Mr. Thurbon showed a large map to the entire committee, which was not attached to the written testimony of the Mayor, which showed the area that would be eligible for annexing unilaterally right now and explained same.

Mayor McClinton stated in closing remarks that the people with the least ability to afford Shawnee County's budget are the ones bearing most of the burden, while the people on the edge of the city limits only produce 30% of that budget. He said the City of Topeka is asking for some tax equity, or the city will deteriorate. The situation needs to be corrected, and Topeka cannot continue to subsidize the continued growth on the peripheral of the city limits.

Senator Reitz asked if the city was prepared to give services immediately once the taxes change. The services should be there as soon as the first tax is taken by the city, i.e. the services for police, fire, etc. Mayor McClinton replied that the city is in the process of preparing a plan that will indicate what services the city needs to provide immediately. The plan might come back and tell the city that only a part is included and so it might be a little premature to develop totally until it is finalized as to what areas will be included in the plan.

Chairman Brungardt inquired as to what degree do the city and county currently have inter-local agreements to share services and cross-cover functions for the taxpayer. Mayor McClinton responded that there are some, but there are a lot of services the two do not share. He said there was not nearly enough to try to even the balance of the tax burden.

Senator Brownlee asked what the debt loads were for the City of Topeka and for Shawnee County.

Mayor McClinton said he did not know. Chairman Brungardt stated that would forthcoming in later testimony during the hearing.

Senator Hensley commented in regard to the appointment of the study commission and the difference between Shawnee County vs Wyandotte County. He explained that the delegation of Wyandotte was very much divided, some in favor and some opposed, and there was an outside effort to establish that the commission be appointed by the Governor. He said that this case is very different because the Shawnee County delegation is united in terms of **HB 2083**, and referred the Committee to the list of co-sponsors for the bill in the House including all democrats and republicans from Shawnee County. He stated the delegation from Shawnee County felt it was very important to have a say in who was on the commission since the Governor, the Minority Leader of the Senate, and the Speaker of the House reside in Shawnee County.

Mayor McClinton noted that the issue was making state-wide policy, and will the rest of the state be comfortable with the members appointed to the commission. He asked if those people in southeast Kansas want the same people appointed as members to their commission as the resources dry up across this state, and will the other people in other areas of the state want the same people making the appointments for their areas. He inquired if the people would be more comfortable having the Governor, who has the responsibility for the entire state, and who has made those appointments before for Wyandotte County's consolidated local governments.

Don Moler, League of Kansas Municipalities, testified in support of **SB 262** which he said was a virtual carbon copy with very few changes from **SB 238** which was passed by the Kansas Senate two years ago on a vote of 36 to 3. He reminded the Committee that this was legislation that is not new to the body, and in fact was overwhelmingly voted out of the Senate, but was assigned to the Local Government

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:40 a.m. on March 3, 2005 in Room 231-N of the Capitol.

Committee in the House and at some point turned in to an agricultural bill, and subsequently died. He explained that **SB 262** provides that local governments and their electors get to decide whether or not there is a consolidation. This bill does not involve the State of Kansas, the State Legislature, the Governor, or anybody else. It is done at the local level by local citizens wishing to consolidate. Mr. Moler stated that the League supports **SB 262** as a mechanism which will allow the people of Kansas, in cities and counties across the state, to make choices about the structure and organization of their governments. (Attachment 2)

Randall Allen, Kansas Association of Counties (KAC), spoke in favor of **SB 262**, the Efficiency in Local Government Act provides. He stated that KAC has no position on **HB 2083**, and believes that it is a local matter and best determined by the citizens of Topeka and Shawnee County as was done in Wyandotte County. **SB 262** gives local governments an opportunity to devise a system of local government which best meets their needs without seeking legislative approval on a case by case basis. He said that KAC opposes mandatory consolidation of local government units and/or services. Mr. Allen explained that KAC supports legislative changes that remove statutory limitations to consolidation of functions and services. (Attachment 3)

Mr. Allen noted that new Section 7, on page 7, of **SB 262**, was unnecessary language because city and county always have the authority to tax and to appropriate moneys for any public purpose. There is no statutory limitations at this time, and suggested that this section be removed from the bill. He also talked about a provision of **HB 2094** which had a prohibition on the elimination of any elected offices at the city or county level in putting together the reorganization. He said this, in his opinion, "guttled" the bill, and asked that when this Committee works **SB 262**, consideration should be given to not inserting such a provision in the bill. Mr. Allen explained that when a city and county combine their governments, there will be some elimination of elected offices and thus having some kind of unified governing body. He added that the persons putting together the consolidation plan will determine whether or not there will be other elected officials, i.e. Register of Deeds, County Clerk, County Treasurer, etc. In some counties, they will remain elected, and other counties they may not remain as elected officials. Mr. Allen stated that it would be bad public policy for the Legislature to indicate the local governments could not take those actions in the plan should they choose to.

Mr. Lockner, Topeka resident, testified in favor of **SB 262** and in opposition to **HB 2083**. In speaking to **HB 2083**, he said if the language is left in regarding the moratorium on unilateral annexation and also the dual majority voting requirement it would really hamper the discretion of the commission itself which the bill asks to put together the consolidation plan. The commission needs to have wide discretion because there is going to be a lot of negotiation, a lot of exchange of information, etc. He stressed that when the commission has discretion to pursue alternatives, the chances are increased that it will reach consensus on a city-county reorganization plan that will be approved by a majority of voters in Shawnee county affected by the alternatives. The plan would address issues identified initially by the commission. (Attachment 4)

Mr. Lockner stated the reason he is in favor of the passage of **SB 262** would be to enhance the economic competitiveness of the Kansas capital metropolitan region. He said the bill rightly assumes that many complex and difficult issues crosscut local government boundaries and are more likely to be mitigated, if not resolved through short-term and long-term regional strategies. Passage of **SB 262** increases Topeka's chances of generating more jobs and higher paying jobs in the region so that a higher quality of life can be achieved. Mr. Lockner explained that for this to occur, governments in the metropolitan region must reorganize and more frequently collaborate and deliver municipal-type services to residents and to for-profit business and not-for-profit organizations with increased effectiveness, efficiency, timeliness, and equity, plus with increased public accountability over the long run. Mr. Lockner detailed the clarity questions that need to be addressed with **SB 262** in his written testimony. He stated that the bill should contain clear language that minimizes conflicting interpretations, court litigation and costly delays.

Ernest Mosher, Topeka resident, appeared in support of **SB 262** and **HB 2083** with some amendments. He spoke briefly on the historical structure of Kansas' present general governments, and that it made sense in the past with cities serving urban residents, townships serving rural farm areas, and the county providing basic functions needed throughout the whole county. He said the present "system", designed

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:40 a.m. on March 3, 2005 in Room 231-N of the Capitol.

145 years ago, was intended to function in a different environment than what is in existence today. Mr. Mosher explained that the state has made many adaptations over the years, which explains the existence of the 3,887 different governments it has, including 1,533 special districts. ([Attachment 5](#))

Mr. Mosher provided a proposed Senate Substitute bill that combines both bills into one, and the amendments were outlined and attached to his written testimony. He said the obvious reason for proposing a Substitute combining the two bills is practical politics, or the art of compromise, intended to achieve a new law relating to governmental consolidation and reorganization, rather than have two bills that each pass one chamber of the Legislature, but not the other. He noted that the amendments do not deal with some evident issues in **HB 2083**, relating to method of appointing the study commission, dual voting, or the moratorium on Topeka's annexation. Mr. Mosher felt that most of the proposed amendments are non-controversial, but explained the difference between proposing a functional consolidation approach ("offices, functions, services and operations") and proposing a governmental consolidation (a new city-county) by using wording from both original bills (Section 4 in **HB 2083** and Section 5 in **SB 262**).

Terry Holdren, Kansas Farm Bureau (KFB), testified in opposition to **SB 262**. He stated that the bill, as proposed, had many provisions which the KFB's member adopted policy directly supports including the requirements of multiple public hearings and specific representation from unincorporated areas on the study commission. He said KFB's policy also supports the provisions which define tax and bonding level limits for the consolidated. Mr. Holdren stated that KFB respectfully requests the Committee to consider the following changes: (1) The final consolidation plan should be approved by a majority of voters residing in the municipality in question, and a majority of voters in the unincorporated areas of the county; (2) At least one half of the members of the commission studying consolidation should represent unincorporated areas of the county; and (3) the commission should not have the authority to abolish elected positions and replace them with appointed positions. ([Attachment 6](#))

Paul Degener, resident of suburban Shawnee County, spoke in opposition to **SB 262**. He stated his main objection to **SB 262** is that a citizen does not have a representative vote and makes government too large. He said that new Sec. 5, (b)(3) authorizes the election or appointment of officers under consolidation, and it does not specify which officers are to be appointed or elected. This could result in only the governing body being elected, and that is taking government out of the hands of the electorate. Mr. Degener testified that the present form of government provides a certain amount of checks and balances, and under consolidation the security of these checks and balances would be lost at the local level. ([Attachment 7](#))

Mr. Degener stated that he supported **HB 2083** because of the ambitious annexation plan proposed by the City of Topeka in **SB 262**. He explained that the city's plan would decimate surrounding townships, and have an adverse impact on township residents plus result in higher taxes. He said that this bill would impose a moratorium on unilateral annexation, and those people being annexed into the city would have no representation which is unconstitutional.

Randy Rogers, Vice President of Kansas County Officials Association, and Coffey County Sheriff, submitted written testimony in opposition to **SB 262**. ([Attachment 8](#))

Written testimony was submitted in support of **HB 2083** by Representative Harold Lane ([Attachment 9](#)) and Representative Ann Mah. ([Attachment 10](#))

Senator Hensley pointed out that Representative Lane's submitted written testimony was on behalf of the Shawnee County Delegation of which Representative Lane is the Chairman. He explained that the Shawnee County Delegation met prior to the end of December last year and started drafting the provisions of **HB 2083**.

Vic Miller, Shawnee County Commissioner, testified in support of **HB 2083**. He stated that he had served eight years as a Topeka City Councilman and eight years as a Shawnee County Commissioner, and was convinced that duplication of costs and services does exist and could be eliminated through consolidation of the two governmental units. He said that Topeka and Shawnee County were not Kansas City or

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:40 a.m. on March 3, 2005 in Room 231-N of the Capitol.

Wyandotte County, and what works there would not necessarily work in this situation. He stated he was confident that a body of five Shawnee Countians, the appointment of which is provided for in **HB 2083**, can devise a plan that will fit the needs of the community as well as receive the support of both a majority of Topeka residents and non-Topeka residents. He passed around a photo taken in the county showing road conditions from a recent snow storm with a sign posted "Township Maintenance Ends", and said it demonstrated clearly the different levels of service the people in the townships have grown accustomed to compared to what the City of Topeka provides for, in that one particular service.

Mr. Miller also provided copies as information of a *Topeka Capital Journal* editorial dated September 4, 1984, which talked about city-county consolidation which stated it "is a topic that needs to be explored seriously—and the sooner, the better." He stated that it hasn't happened yet, and there is no practical reason to believe that it will happen if the decision goes to the very units of government that have a vested interest in not seeing it through. (Attachment 11)

In response to Senator Brownlee's question regarding the debt loads, Mr. Miller distributed copies of a bar chart (copies attached to written testimony) depicting the City of Topeka's indebtedness from 2000 through 2004. He explained that the chart showed the debt had climbed in the last four years over 100%, and 33% in the last year. In 2001 it was \$209,433,083 and in 2004 it stood at \$306,635,587. The County's current debt level remains around \$50 million during the same four year time period. He stated that he understands and appreciates what the reasonable apprehensions of people outside the city are fearing with a consolidation of the two governments. Mr. Miller said that many county voters relish the thought of a consolidated government that would lead to the elimination of the current city government, and he was describing the environment and atmosphere that was present outside the city. He explained that the photograph that he passed around was a vivid illustration of what those people currently pay for and why they enjoy township services, and that the people fear they are going to lose those services under a consolidation. He noted that **HB 2083** does not call for the elimination of township government, and once that is understood within the county residents, there will be more converts to supporting this legislation.

Senator Hensley noted that there was a fiscal note on **HB 2083** which was prepared by the Director of the Budget. He read the last paragraph. "By way of example, \$150,000 was spent on the Kansas City, Kansas, and Wyandotte County consolidation from FY 1996 to FY 1998. The financing was provided in equal amounts of \$50,000 by the city, the county, and EDIF funds from the Department of Commerce and Housing. (Attachment 12) He asked both Mr. Miller, a County Commissioner, and Mayor McClinton if there would be an agreement to proceed with the study and whether the local units of government would help fund the study. Mayor McClinton acknowledged the City would be agreeable. Mr. Miller said the county reflected on that last August when the question was put on the ballot, by amending the County Resolution by striking the word "study" and inserting the word "plan." He stated that the County Commissioners have unanimously endorsed **HB 2083** since the time that his testimony was written in January, at which time he was testifying for himself.

Chairman Brungardt asked Mr. Miller, since he represents the entire county, to what extent the county provides funds or services within the city. Mr. Miller responded he would list the ways: the jail, the Health Department is a county-wide department paid for by everybody once, the whole tax assessment structure is what a county is in general, i.e. Register of Deeds, the County Appraiser, the County Clerk, the County Treasurer, etc. He stated that he constantly fights statements like the one made by the Mayor earlier that 70% of the county's budget comes from the city residents. This is not true. He clarified that 70% of the county's tax base is within the city limits, and a huge percentage of that tax base is commercial and industrial properties which many of those are owned by county residents or non-city. Mr. Miller added that when one really cuts down the percentage of taxes that the county gets from the city residents vs county residents, it is almost even and is a huge misnomer. He said he wanted to get down to one government because it would be a lot easier to explain than the two forms of local governments, and trying to clarify what each does and doesn't do.

Chairman Brungardt inquired as to what justification there would be in having equal representation of the people who happen to reside in the county and the city and those who happen to reside in the county

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:40 a.m. on March 3, 2005 in Room 231-N of the Capitol.

outside the city in form of the vote. Mr. Miller said that was the only way the bill was going to escape the Kansas Legislature. It will not pass the Kansas House of Representatives, and it won't see the light of day if it does not provide for the dual majority if it will even pass the Senate. He reminded the members that when Shawnee County tried to spread the Topeka Public Library's mill levy county-wide, they were told that it could not be done. Mr. Miller explained the bill provided that it had to pass both city and county residents, and it did pass even though it was said it couldn't be done. Having served on both the City Counsel of Topeka and the Shawnee County Commission, Mr. Miller stated he believed a plan could be developed to mimic, not specifically, the Wyandotte County government, and present a plan to the Commission's constituents across the county that will illustrate that nobody had to get gored in order to obtain efficiencies.

Mayor McClinton offered a brief rebuttal regarding whether the city and county would split the cost of the plan. He stated the city would pay for it all if the Legislature could produce legislation that would convince all of those people within the three mile limit of the city that the plan is good for Shawnee County. He stated if dual majority remained in the current legislation, the plan will not happen. There is nothing to encourage these people to help support consolidation.

Chairman Brungardt announced that the hearing would continue on **SB 262** and **HB 2083** in Room 241-N at the next committee meeting.

The meeting was adjourned at 11:55 a.m. The next meeting scheduled is Tuesday, March 8, 2005, in Room 241-N.

SENATE FEDERAL & STATE AFFAIRS COMMITTEE GUEST LIST

DATE Thurs, March 3, 2005

Harold R Huntsman	
ALYN O. LOCKNER	
Randy Waterman	
Gray Selley	
Whitney Damm	City of Topeka
Mayor James McClinton	City of Topeka
David Graversen	City of Topeka
David Thurbon	City of Topeka - Planning
Rick Grose	TABA
Phyllis West	Topeka, KS
Brenden Long	City of Topeka
Steve Anderson	Monmouth Township Trustee
Dennis Morris	
ALVIN F. KUSSMAN	
James A Keyser	Topeka
Stephen B Hennessey	Tecumseh Township Trustee
Mary M Koster	SOLDIER TOWNSHIP
Channon Koster	" "
Jack Weefeld	City of Topeka
John Alcala	City of Topeka
Linda Bowzer	Tecumseh Township
Tiffany Muller	CITY OF TOPEKA
Senator, David Faulstich	Soldier Township
Chark Hickey	" " " "
TOM PALACE	" "

SENATE FEDERAL & STATE AFFAIRS COMMITTEE GUEST LIST

DATE Thurs, March 3, 2005

Pg. 2

Hermit Schrenk	SHALWEE HEIGHT
Erny Heel	Soldier Township
Marwin Neukirch	Tecumseh Township
Joe Hawkins	Shawnee Co. Fire District #1
DAN M Rickel	menoken Township
Alvin METZ	MISSION "
Don Moler	LKM
Randall Allen	Ks. Assoc. of Counties
Paul A. Dufur	Soldier Township
Douglas P. Hartman	Soldier Township
Suzanne Simoi	Ks Reg of Deeds Assn.
Marilyn Nichols	" " " "
Harlan Benz	Soldier
Mark Snyder	Tecumseh
Wil Lieb	Ks. AFL-CIO
Keith Kappelman	MISSION Township
Lynette Gattwood	Tecumseh township
Edna Savely	Tecumseh Township
Eric Melvin Jr	Peru Township
Sue Lyon	Tecumseh Township
Barbara McCauley	Tecumseh Township
Robert W. Swartzman	Shawnee Heights/Tecumseh Township
Thomas R. Hendrick	Tecumseh Township - Shawnee Heights
Vernon Foster	Soldier Township / Seaman District
Warrick Harding	Shawnee Heights

SENATE FEDERAL & STATE AFFAIRS COMMITTEE GUEST LIST

DATE Thurs, March 5, 2005

pg. 3

Warren A. Harding	Shawnee Heights
Karl M. Norton	Northland Residents Against Annexation
Eric Montague	SOLDIER TOWNSHIP
KAREN DORRIS	North Topeka - Soldier Township - NO annexation
KEN DROLETT	SHAWNEE HEIGHTS
PAUL DEGENER	SOLDIER TOWNSHIP
John A. Hansen	Shawnee County - Tecumseh Township
Kathy Deamm	City of Topeka
Alfred & Margaret	Shawnee County
Beto Taberline	Soldier Township
Janice Taberline	Soldier Township
Bud Bramesch	Mission Township
Willie White	✓ ✓
ONIS L. LEMON	Mission Township
Bob + Dorot Brown	Mission Township
Dorothy Brown	Mission Township
ROBERT A. WATSON	SOLDIER TOWNSHIP
Norman + Barbara Clark	Soldier Township
Kelly Burke	Sherwood - Mission Township
Thomas P. Browne, Jr	Tecumseh Township
RICHARD MAGNOT	SOLDIER TOWNSHIP
Rofie Mill	
DOUG WITTMER	LAND KANSAS REAL ESTATE
SUSAN SOMERS	Mission Township
C.W. SOMERS	Mission Township



CITY OF TOPEKA

James A. McClinton, Mayor
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Topeka, Kansas 66603
Phone 785-368-3895
Fax Number 785-368-3850

SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

I appreciate this opportunity to appear before you this morning and offer these comments on HB 2083 and SB 262.

As you know, the City of Topeka has been vocal with its concerns over several provisions of HB 2083. While I want to briefly restate those concerns here, I also want to emphasize that the goal of the City of Topeka is to provide its citizens with efficient and equitable government. We are confident that this legislative process will get us closer to that goal.

First, with regard to HB 2083, we believe that the dual majority voting requirement diminishes the voting status and power of Topeka voters, and greatly reduces the likelihood of a meaningful study and subsequent adoption of any type of consolidation in Shawnee County.

Please recall that non-Topeka citizens of Shawnee County voted overwhelmingly last fall to not consider the consolidation legislation before you. There is no reason to think that sentiment will change after a study. In other words, if the dual majority requirement remains in HB 2083 this may all be a waste of time.

Second, the City of Topeka dislikes the unilateral annexation moratorium provision of HB 2083. Unfortunately, and inaccurately, there is a widespread notion that the City of Topeka is a great abuser of the unilateral annexation process. The truth is, the City of Topeka has not utilized non-consensual unilateral annexation in more than fifteen years. Our growth has occurred primarily through developer requested annexations and some small county commission approved annexations. There have been no land grabs or forced takeovers of anyone's property. Like the legislation of the last two years, the proposed moratorium appears to be an attempt to fix a problem that doesn't exist.

Finally, we remain very concerned about the selection of the consolidation commission appointees. A consolidation study commission should do its work without local political influence or pressure. Consolidation is a statewide concern. The governor has a statewide perspective. It makes sense that the governor, rather than local representatives should appoint members to the commission.

Senate Federal & State Affairs

Committee

3-03-05

Attachment 1

The question that should be answered is this: Why was it appropriate for the governor to select the Wyandotte County commission members, but it isn't appropriate in the case of Shawnee County? A successful precedent has been established. Why change?

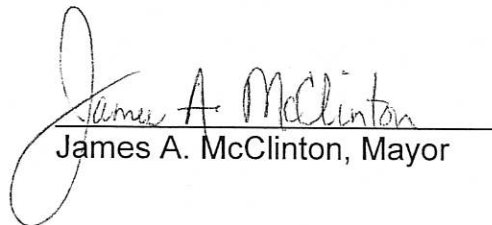
Given these concerns, the City of Topeka prefers the general consolidation language found in SB 262. It provides a framework for the study and possible implementation of consolidation of government that stands the greatest chance of success. It is not handicapped by the political pressures and personalities of Shawnee County and Topeka.

Having said all of this, I am confident that you have heard and understand our concerns on these issues. I know that you will carefully consider them as you deliberate on these bills.

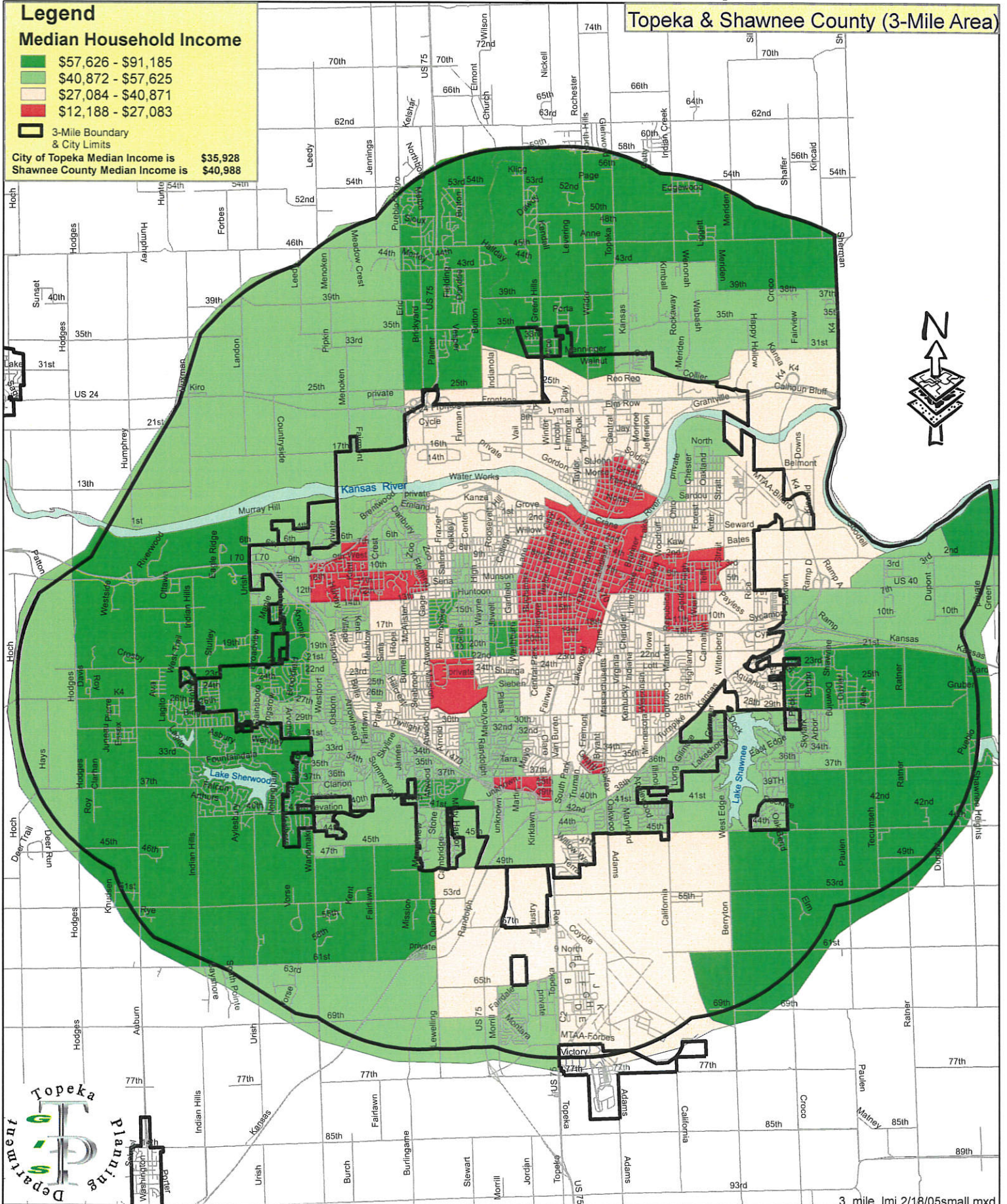
I will close with these thoughts. The primary concern of the City of Topeka on the issues of consolidation, annexation and tax equity has always been the future of this community. Over the past several decades, growth in Shawnee County has occurred not within the city limits or in the rural areas, but immediately adjacent to the city limits of Topeka. Almost 30,000 people live in urban environments located outside the city but within three miles of the Topeka city limits. This is a larger population than found in Emporia, Dodge City, Garden City, Hays or Liberal. These people enjoy all of the benefits of living near a city, but have almost none of the obligations that support these benefits. There needs to be a better balance of the benefits and obligations of living in and near Topeka.

As our planning director, David Thurbon, will describe in a minute, this situation has created a problem for the city that must be solved if the capital city of this state is to thrive as it deserves. Whether that solution comes in the form of a sincere and complete study of consolidation, annexation or tax equity, is ultimately up to you.

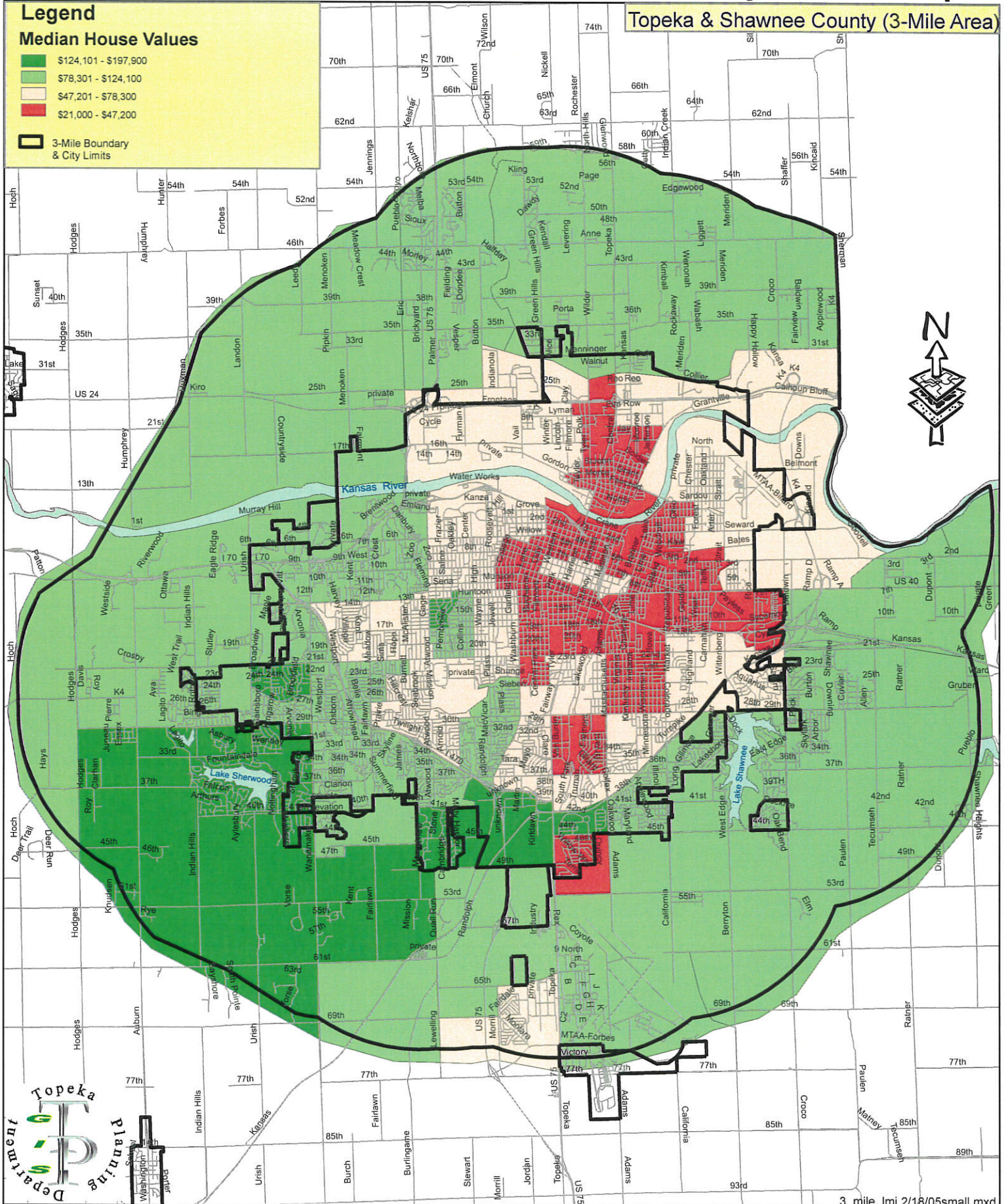
I fully understand the difficulty of your task and appreciate your efforts.


James A. McClinton, Mayor

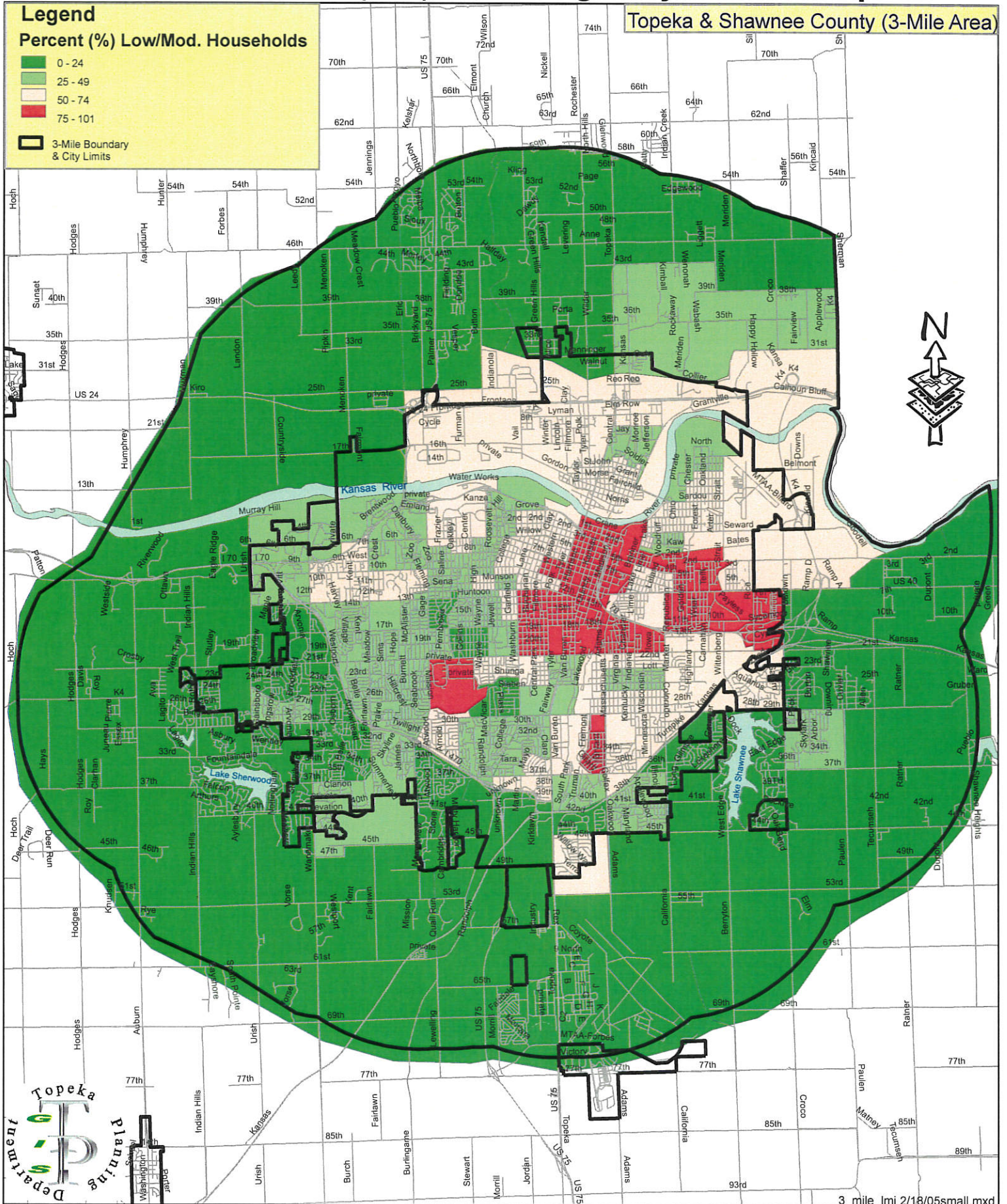
2000 Median Household Income By Block Group



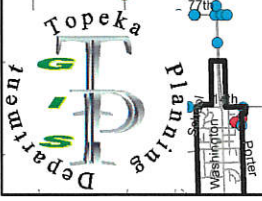
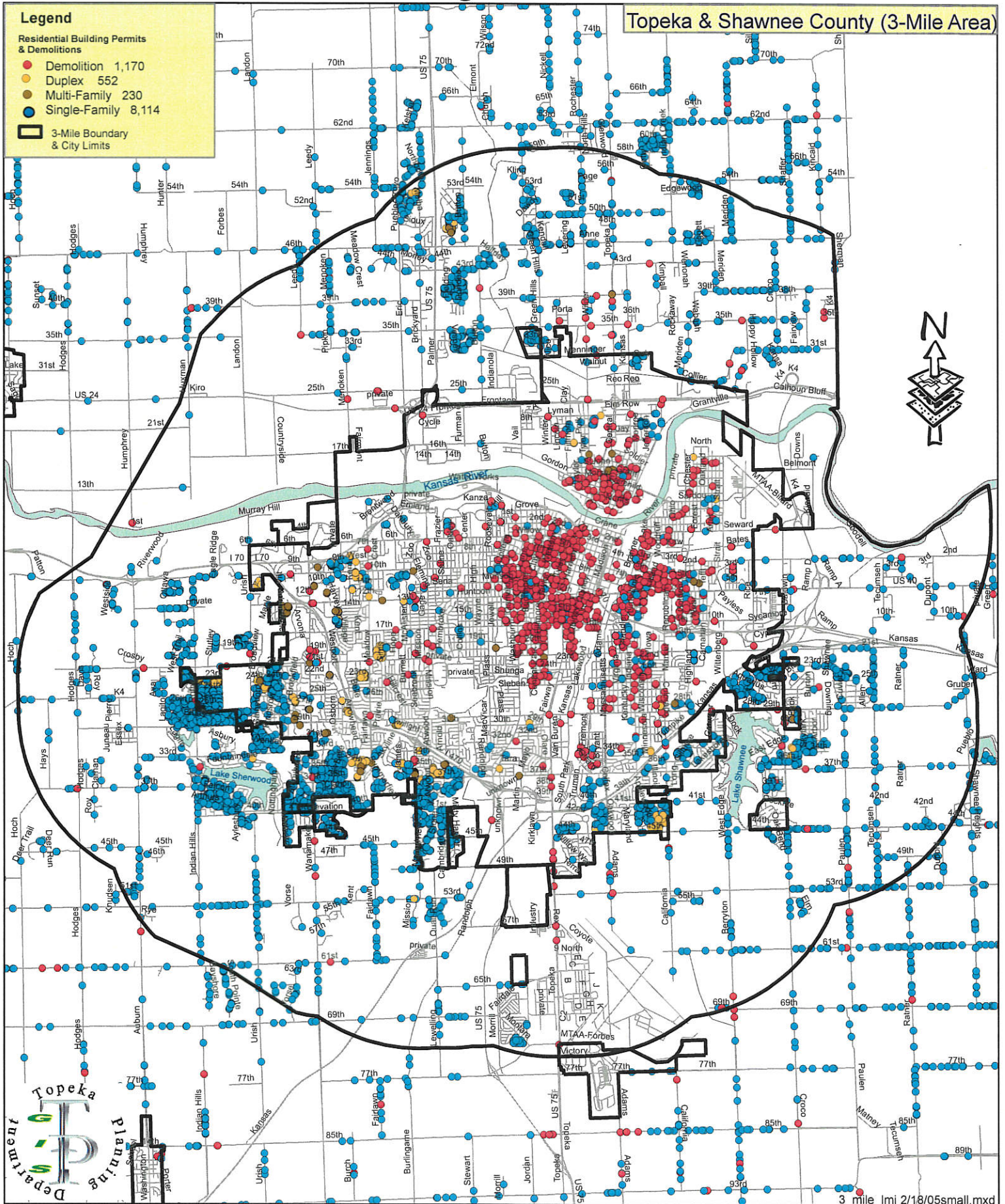
2000 Median Value of Owner Occupied Houses By Block Group

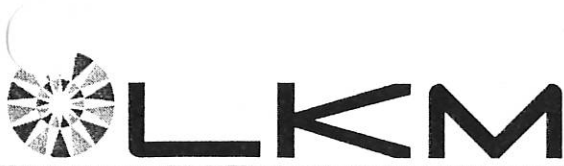


Low-Moderate-Income (LMI) Percentages By Block Group



1990-2004 Residential Building Permits & Demolitions





League of Kansas Municipalities

300 SW 8th Avenue
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
Fax: (785) 354-4186

To: Senate Federal and State Affairs Committee
From: Don Moler, Executive Director
Re: Support for SB 262
Date: March 3, 2005

First I would like to thank the Committee for allowing the League, a strong advocate of local control, to testify today in strong support of SB 262. Our organizational policies typically focus on the ability of cities to make their own way and to determine their own fate. The Efficiency In Local Government Act would allow cities and counties, and their residents, to determine their own local government organizations and will allow them to maximize efficiencies in government as well as modernizing governmental structures in Kansas.

The League has for a number of years supported permissive statutory language to allow local reorganization. We have further held the belief that the issue of reorganization is inherently a local one, and that the voters should be allowed to determine whether reorganization with another unit of government should occur. As a result we are fully supportive of SB 262 and the provisions that require the proposal for reorganization to be placed before the voters of the local governmental units involved in the proposed reorganization. Any unit whose electors vote against the reorganization would not be included in such reorganization.

In these hard economic times, it brings into sharp focus the need for governments, at all levels, to look to maximizing public resources and to minimizing public expenses. We believe that SB 262 a mechanism which will allow the people of Kansas, in cities and counties across the state, to make choices about the structure and organization of their governments. As a result we strongly support SB 262 and would urge the Committee's favorable recommendation of the bill to the full Senate. I will be happy to answer any questions the Committee may have on the League's position on SB 262.

Senate Federal & State Affairs
Committee
3-03-05
Attachment 2



KANSAS
ASSOCIATION OF
COUNTIES

TESTIMONY
concerning Senate Bill No. 262
EFFICIENCY IN LOCAL GOVERNMENT ACT
Presented by Randall Allen, Executive Director
Kansas Association of Counties
March 3, 2005

Chairman Brungardt and members of the committee, my name is Randall Allen, Executive Director of the Kansas Association of Counties. I am here to express support for Senate Bill No. 262, the Efficiency in Local Government Act, which provides a mechanism and public process for cities and counties to consider and then implement alternative organizational structures without first seeking legislative approval. The Kansas Association of Counties neither supports nor opposes consolidation of city and county governments in Kansas per se. Our current legislative policy statement concerning consolidation, adopted by our membership, is as follows:

"The Kansas Association of Counties opposes mandatory consolidation of local government units and/or services. Counties presently share provision of numerous services with cities and other counties, but they should not be forced to do so. The KAC supports legislative changes that remove statutory limitations to consolidation of functions and services."

Cities and counties are currently prohibited from effecting governmental consolidation on their own without first seeking specific statutory authorization. As such, the framework of SB 262 is positive in direction because it gives local governments an opportunity to devise a system of local government which best meets their needs without seeking legislative approval on a case by case basis. This is the essence of home rule and local control which the Association has supported forever, a philosophy clearly reflected in SB 262. SB 262 is very similar to a work product of a 1998 interim study committee which subsequently passed the Senate in the 1999 session (i.e. SB 7). An identical bill (i.e. SB 238) passed the Senate in 2003. We do not believe that passage of SB 262 would result in widespread consolidation of cities and counties across Kansas. However, it removes the obstacles for cities and counties to seriously consider the feasibility of reorganizing and restructuring local government. We believe SB 262 is good public policy and urge you to recommend it favorably for passage.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randall Allen or Judy Moler by calling (785) 272-2585.

300 SW 8th Avenue
3rd Floor
Topeka, KS 66603-3912
785•272•2585
Fax 785•272•3585

Senate Federal & State Affairs
Committee
3-03-05
Attachment 3

**TESTIMONY OF ALLYN O. LOCKNER ON HB 2083
BEFORE THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE OF THE KANSAS LEGISLATURE
AT 10:30 AM ON MARCH 3, 2005 IN ROOM 313-S, STATE CAPITOL BUILDING**

The Honorable Senator Pete Brungardt, Chairman, and members of the committee: My name is Allyn O. Lockner. I reside at 2135 SW Potomac Drive, No. 4, Topeka. In my testimony I represent no organization or group. I speak only for myself. I recommend **Do Not Pass** HB 2083 to the committee.

Why Not Pass HB 2083? We must begin with the goal in mind, and move backwards to determine what must be done to achieve that goal.

- 1) The **goal is for the consolidation commission** to develop a final consolidation plan which the majority of the voters living, and owning land and improvements in areas of Shawnee County affected by the plan will approve.
- 2) To achieve the goal in 1), the consolidation **commission develops and reaches consensus** on a final consolidation plan that it submits to voters for approval and that **it believes will be approved by a majority of voters**.
- 3) To **achieve the consensus** in 2) means that all commission members agree with the final consolidation plan and actively support it, or if, after negotiation, minority members do not agree with the plan, they accept the plan and will not actively or passively oppose it.
- 4) To maximize the chances of achieving the outcomes in 1), 2) and 3), the consolidation **commission needs maximum leeway** --- room for maneuver --- to use "principled negotiation" and reach consensus on a variety of plan provisions.
- 5) The **leeway in 4) is hampered** by the dual voting majority requirement (a potential "poison pill" where a "majority of a minority" of voters determines the voting outcome), unilateral annexation moratorium, and their combined effects on restricting the commission's negotiation of and reaching consensus on plan provisions.
- 6) The provisions in 4) **require the commission to have adequate time** to conduct research on city-county consolidation, to collect information from landowners, land developers, City of Topeka, Shawnee County and other consolidation stakeholders, to negotiate and reach consensus with these stakeholders, and sufficient time for the commission members to negotiate and reach consensus on the plan.
- 7) The complexity and difficulty of achieving 1) through 4) and 6) **probably will require more time** than is allowed in HB 2083. To rush to consolidation without "touching all bases" would increase the chances of consolidation failure. The **commission will have more time, resources and information** that will better enable it to estimate the time likely required for research, hearings, discussions, dialogue, negotiation and consensus.

The commission's development of the final consolidation plan in 1) through 7) is, in effect, a "**consolidation agreement.**" It is a negotiated consensus agreement among a majority of voters living, and owning land and improvements in areas of Shawnee County, including the City of Topeka, affected by the plan, and among the members of the consolidation commission.

Consolidation Alternatives. HB 2083 embraces only consolidation and **does not include alternatives** which research shows to be important. Very early in its deliberations, the commission will probably need to identify the issues which confront the City of Topeka, Shawnee County, landowners, land developers, and other entities. It will need to identify which issues can be mitigated, if not resolved through consolidation. What happens if the consolidation commission **is unable to reach consensus** on a final consolidation plan to successfully address these issues? What happens if a **majority of voters disapprove** the commission's consensus final consolidation plan? What does the **commission do next?**

If these outcomes occur, then the commission needs the authority to consider consolidation alternatives. These alternatives are not limited to unilateral annexation, but, for example, also include:

annexation which includes negotiated or mediated agreements sometimes called "pre-annexation agreements;"
intergovernmental revenue- and expenditure-sharing agreements;
intergovernmental customer (taxpayer) services and administrative services agreements;
dependent and independent special purpose districts;
more and strengthened neighborhood associations;
service and taxing areas;
metropolitan regional council of governments; and
metropolitan regional governance involving more collaboration among public and private entities.

Kansas law authorizes some of these alternatives. Some alternatives may not require voter approval. When the commission has **the discretion to pursue alternatives, the chances are increased that it will reach consensus** on a city-county reorganization plan that will be approved by a majority of voters in Shawnee County affected by the alternatives. **Most important, the plan would address issues** identified initially by the commission.

Thank you. I will be glad to answer questions about my testimony and related matters.

Senate Federal & State Affairs
Committee
3-03-05
Attachment 4

Amendments to Substitute Bill

Ernest Mosher

The attached substitute bill combines the provisions of HB 2083 and SB 262, with amendments. Each of the amendments to the existing bills in this Substitute bill are lettered, (A) through (P). Following is an explanation of each amendment, by parts. Page references below refer to the numbers in the upper right corner.

Part 1. Amendments to Existing HB 2083

(A), Page 1. To separate the definitions used differently in the two bill parts.

(B), Page 2. To clearly provide that the provisions of Section 4 (b) will permit the study commission to propose changes relating to governance and administration if it submits a plan relating to, and as a condition of, a proposed “consolidation of certain city and county offices, functions, services and operations”.

(C), Page 3. To provide that the study commission has an option of proposing that some or all the city-county governing body members be nominated by district voters but elected at-large, such as used in many school districts.

(D), Page 4. To extend the application of the provision relating to the transfer or other disposition of property and assets, now limited to the “county and city”, to any other political subdivisions directly affected by the consolidation. For example, in a governmental consolidation, the highway machinery and equipment of townships, as well as those of the city and county, would be subject to transfer or other disposition

(E), Page 4. To clarify that this section applies only to general obligation bonds. As worded, it could be construed to mean, for example, that the principal and interest on revenue bonds issued by a city to finance interceptor sewers outside the city, would be an obligation only on property within the city.

(F), Page 5. To authorize the study commission for Shawnee County to propose a single, countywide law enforcement agency, with civilian control vested in the new city-county elected governing body, that would be financed countywide. While the voters of the third class cities of Auburn, Rossville, Silver Lake and Willard would vote on the adoption of the plan, and would vote for the city-county governing body, property in these cities would not be subject to taxation to finance a countywide system, absent this amendment. (In 2003, Topeka spent about \$24.0 million and the Shawnee sheriff’s department about \$8.3 million.)

(G), Page 6. Subsection 6(m), in lines 6-8 on page (6) now provides: “(m) The governing body of the consolidated city-county may create special service districts within the city-county and may levy taxes for services provided in such districts” This would permit, for example, levying higher property taxes in an urbanized area benefiting from a higher level of certain public services than is provided in agricultural areas.

As a general rule, governmental regulations must be uniform in their application throughout their jurisdiction. The new city-county should have some flexibility in applying various regulations applicable to persons and property needed in urbanized areas that may not be needed in truly rural areas. The amendment would permit varying such regulations to encourage the preservation of land devoted to agricultural uses.

(H), Page 6. Existing Sections 10 and 11 of HB 2083 has been shifted to Sections 18 and 20 of the Substitute bill.

Senate Federal & State Affairs
Committee
3-03-05
Attachment 5

Part II. Amendments to Existing SB 262.

(I), Page 7. To separate the definitions and application of the two bill parts.

(J), Page 10. To clearly provide that the provisions of Section 4 (b) will permit the study commission to propose changes relating to governance and administration if it submits a plan relating to, and as a condition of, a proposed “consolidation of certain city and county offices, functions, services and operations”.

(K), Page 10. To provide that the study commission has the option of proposing that some or all the city-county governing body members be nominated by district voters but elected at-large, such as used in many school districts.

(L), Page, 11. To extend the application of the provision relating to the transfer or disposition of property and assets, now limited to the “county and city”, to any other political subdivisions directly affected by the consolidation. For example, in governmental consolidation, the highway machinery and equipment of townships, as well as those of the city and county, would be subject to transfer or other disposition.

(M), Page. 11. To clarify that this section applies only to general obligation bonds. As worded, it could be construed to mean, for example, that the principal and interest on revenue bonds issued by a city to finance interceptor sewers outside the city, would be an obligation only on property within the city.

(N), Page, 13. Subsection 6(m), in lines 6-8 on page 13 now provides: “(m) The governing body of the consolidated city-county may create special service districts within the city-county and may levy taxes for services provided in such districts” This would permit, for example, levying higher property taxes in an urbanized area benefiting from a higher level of certain public services than is provided in agricultural areas.

As a general rule, governmental regulations must be uniform in their application throughout their jurisdiction. The new city-county should have some flexibility in applying various regulations applicable to persons and property needed in urbanized areas that may not be needed in truly rural areas. The amendment would permit varying such regulations to encourage the preservation of land devoted to agricultural uses.

(O), Page 13. Transferred from Section 10 of HB 2083.

(P), Page 13. Transferred from Section 11 of HB 2083.

(1) 5-3

Proposed Draft

SENATE SUBSTITUTE FOR HOUSE BILL No. 2083

By Committee on Federal and State Affairs

~~As Amended by House Committee~~

~~Session of 2005~~

~~HOUSE BILL No. 2083~~

~~By Representatives Lane, Burgess, Flora, Gordon, Hutchins, Kirk,
Kaether, Mah and Mays~~

~~1-19~~

AN ACT relating to local government and providing for consolidation and reorganization; amending K.S.A. 2004 Supp. 19-205 and repealing the existing section.

~~11 AN ACT relating to the consolidation of cities and counties.~~

12

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

14 Section 1. ~~As used in sections 2 through 8, and amendments thereto:~~

15 (a) "Commission" means the consolidation commission of Topeka,
16 Kansas, and Shawnee county.

17 (b) "City" means Topeka, Kansas.

18 (c) "County" means Shawnee county.

19 Sec. 2. (a) Within 10 days of the effective date of this act, a consol-
20 idation commission shall be appointed. Each of the following officers shall
21 appoint a member to the commission: The governor, the president and
22 minority leader of the senate and the speaker and minority leader of the
23 house of representatives. The person appointed by the governor shall
24 serve as the chairperson of the commission. No more than three members
25 of the commission shall be from the same political party. Members of the
26 commission shall include, but not be limited to, persons with experience
27 in accounting, business management, municipal finance, law, education,
28 political science or public administration. No elected or appointive official
29 of the cities of Auburn, Rossville, Silver Lake, Topeka or Willard or Shaw-
30 nee county, nor any person appointed to fill a vacancy in an elected office
31 of such cities or county, shall serve on the commission. No paid employee
32 of the cities of Auburn, Rossville, Silver Lake, Topeka or Willard or Shaw-
33 nee county shall serve on the commission. Members of the commission
34 shall be residents of Shawnee county.

35 (b) Members of the commission shall be paid compensation, subsis-
36 tence allowances, mileage and other expenses as provided by K.S.A. 75-
37 3223, and amendments thereto.

38 (c) The members of the consolidation commission shall appoint an
39 executive director of the commission. The executive director shall receive
40 compensation established by the commission. The executive director shall
41 employ other staff and may contract with consultants, as the executive
42 director deems necessary to carry out the functions of the commission.
43 Staff employed by the executive director shall receive compensation es-

(A)

As used in sections 2 through 8 of this act, and amendments thereto:

established by the executive director.

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

Sec. 3. (a) The commission shall prepare and adopt a plan addressing the consolidation of the city and county or certain city and county offices, functions, services and operations. The commission shall conduct such studies and investigations as it deems appropriate to complete its work. Such studies and investigations shall include, but not be limited to, studies of the costs and benefits of consolidating the city and county or certain city and county offices, functions, services and operations.

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

(c) Within 60 days following the appointment of all members of the commission, the commission shall prepare and adopt a preliminary plan addressing the consolidation of the city and county or certain city and county offices, functions, services and operations it deems advisable. Copies of the preliminary plan shall be filed with the county election officer, city clerk, each public library within the county and any other place designated by the commission. Copies of such plan shall be available to members of the public for inspection upon request. The commission shall hold at least ~~one public hearing~~ **two public hearings** to obtain citizen views concerning the preliminary plan. Notice of such ~~hearing or~~ hearings shall be published at least ~~once~~ **twice** in a newspaper of general circulation within the county. Following the public hearings on the preliminary plan, the commission may adopt, or modify and adopt, the preliminary plan as the final plan.

(d) Within 30 days of the last public hearing held on the preliminary plan, the commission shall adopt its final plan. The final plan shall include the full text and an explanation of the proposed plan, and comments deemed desirable by the commission, a written opinion by an attorney admitted to practice law in the state of Kansas and retained by the executive director for such purpose that the proposed plan is not in conflict with the constitution or the laws of the state, and any minority reports. Copies of the final plan shall be filed with the county election officer, city clerk, each public library within the county and any other place designated by the commission. Copies of such plan shall be available to members of the public for inspection upon request. The commission shall continue in existence at least 90 days following the submission of the final plan pursuant to this subsection.

(e) The final plan shall be submitted to the qualified electors of the

(2)

5-4

(3) 5-5

county at an election called and held thereon. Such election shall be called and held by the county election officer in the manner provided by the general bond law. Such election shall be conducted by mail ballot. A summary of the final plan shall be prepared by the commission and shall be published once each week for two consecutive weeks in a newspaper of general circulation within the county. If a majority of the qualified electors voting on the plan who reside within the corporate limits of the city and a majority of the qualified electors voting on the plan who reside outside of the corporate limits of the city vote in favor thereof, the consolidation plan shall be implemented in the manner provided by the plan. If a majority of the electors who reside within the corporate limits of the city or a majority of the qualified electors who reside outside of the corporate limits of the city vote against such plan, the proposed consolidation plan shall not be implemented.

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

Sec. 4. (a) Any plan submitted by the commission shall provide for the exercise of powers of local legislation and administration not inconsistent with the constitution or other laws of this state.

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

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

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

(3) Authorize the appointment of, or elimination of elected officials and offices.

(4) Specify the effective date of the consolidation.

(5) Include other provisions determined necessary by the commission.

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

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

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

(3) Determine the distribution of legislative and administrative duties

(B)

(4) If such plan includes changes to the governance of the county it shall fix the boundaries of any of the governing body's election districts, provide a method of changing such boundaries, set the number of members elected by district or at-large, or to be nominated by district and elected at-large, determine whether the elections of the governing body shall be partisan or non-partisan and the time at which such elections shall be held, and fix the term and initial compensation of the governing body members.

(5) If the plan includes changes in the general administration of the county, it shall determine the distribution of the legislative and administrative powers and duties and may authorize the appointment of a county administrator or county manager.

(C)

The plan may also provide for the nomination of some or all the members of the governing body from districts and their election at-large.

5-6

of the consolidated city-county officials, provide for consolidation or expansion of services as necessary, authorize the appointment of a consolidated city-county administrator or a city-county manager, if deemed advisable, and prescribe the general structure of the consolidated city-county government.

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

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

(D) and such other political subdivisions as are directly affected by the consolidation.

Sec. 5. Shawnee county is hereby designated an urban area, as authorized under the provisions of section 17 of article 2 of the constitution of the state of Kansas, for the purpose of granting to such county and urban area powers of local government and consolidation of local government.

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

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

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

(d) The following shall not be included in computing the total bonded indebtedness of the consolidated city-county for the purposes of determining the limitations on bonded indebtedness:

(1) Bonds issued for the purpose of refunding outstanding debt, including outstanding bonds and matured coupons thereof, or judgments thereon.

(2) Bonds issued pursuant to the provisions of article 46 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto.

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

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

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

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

(e) Any bonded indebtedness and interest thereon incurred by the city or county prior to consolidation shall remain an obligation of the

(E) general obligation

(5) 5-7

1 property subject to taxation for the payment thereof prior to such
2 consolidation.

3 (f) Upon the effective date of the consolidation of the city and county,
4 any retailers' sales tax levied by the city or county in accordance with
5 K.S.A. 12-187 et seq., and amendment thereto, prior to such date shall
6 remain in full force and effect, except that part of the rate attributable to
7 the former city shall not apply to retail sales in the cities of Auburn,
8 Rossville, Silver Lake or Willard.

9 (g) Upon the effective date of the consolidation of the city and county,
10 the territory of the consolidated city-county shall include:

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

13 (2) All of the territory of the county, except the territory of the cities
14 of Auburn, Rossville, Silver Lake or Willard and the unincorporated area
15 of the county, for purposes of exercising the powers, duties and functions
16 of a city.

17 (h) For the purposes of section 1 of article 5 of the constitution of
18 the state of Kansas, the "voting area" for the governing body of the con-
19 solidated city-county shall include all the territory within Shawnee county.

20 (i) Except for the consolidated city-county and unless otherwise pro-
21 vided by law, other political subdivisions of the county shall not be af-
22 fected by consolidation of the city and county. Such other political sub-
23 divisions shall continue in existence and operation.

24 (j) Unless otherwise provided by law, the consolidated city-county
25 shall be eligible for the distribution of any funds from the state and federal
26 government as if no consolidation had occurred. Except as provided in
27 this subsection, the population and assessed valuation of the territory of
28 the consolidated city-county shall be considered its population and as-
29 sessed valuation for purposes of the distribution of moneys from the state
30 or federal government.

31 (k) The consolidated city-county shall be a county. The governing
32 body of the consolidated city-county shall be considered county commis-
33 sioners for the purposes of section 2 of article 4 of the constitution of the
34 state of Kansas and shall have all the powers, functions and duties of a
35 county and may exercise home rule powers in the manner and subject to
36 the limitations provided by K.S.A. 19-101a, and amendments thereto, and
37 other laws of this state.

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

(l) The consolidated city-county shall be a city of the first class. The

(F)
(g) If the plan approved by the voters includes provision for a single
countywide law enforcement agency under the city-county governing body,
property taxes levied to finance such agency shall include all tangible taxable
property within the county.

(6) 8-5

1 governing body of the consolidated city-county shall have all the powers,
2 functions and duties of a city of the first class and may exercise home rule
3 powers in the manner and subject to the limitations provided by article
4 12 of section 5 of the constitution of the state of Kansas and other laws
5 of this state.

6 (m) The governing body of the consolidated city-county may create
7 special service districts within the city-county and may levy taxes for serv-
8 ices provided in such districts.

9 ~~○ (n) Changes in the form of government approved by the voters in~~
10 ~~accordance with the consolidation plan are hereby declared to be legis-~~
11 ~~lative matters and subject to initiative and referendum in accordance with~~
12 ~~K.S.A. 12-3013 et seq., and amendments thereto.~~

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

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

18 Sec. 8. All costs incurred or authorized by the consolidation com-
19 mission and all other costs incurred by the city and county pursuant to
20 this act shall be paid by the city and county.

21 Sec. 9. (a) Until a special election is held at which a final plan is
22 submitted for approval to the electors or until a final plan which does not
23 recommend consolidation of the city and county is adopted by a consol-
24 idation commission, the governing body of any city ~~appointing members~~
25 ~~of a consolidation commission to consider which is the subject of a~~
26 **study considering** the consolidation of such city with the county in which
27 such city is located may not initiate pursuant to K.S.A. 12-520, and
28 amendments thereto, annexation procedures of land located within the
29 county, but may annex land upon petition of the owners of any such land.

30 (b) As used in this section, "city" means any city located within
31 Kansas.

32 (c) The provisions of this section shall expire on June 30, 2006.

33 ~~Sec. 10. If any provision of this act is held to be invalid or~~
34 ~~unconstitutional, it shall be presumed conclusively that the legis-~~
35 ~~lature would have enacted the remainder of this act without such~~
36 ~~invalid or unconstitutional provision.~~

37 ~~Sec. 10 11. This act shall take effect and be in force from and after~~
38 ~~its publication in the Kansas register.~~

(G)

(n) The governing body of the consolidated city-county may create defined areas within the city-county for the purpose of applying regulations on persons and property that encourage the preservation of land devoted to agricultural use as defined in K.S.A. 12-519(f) and amendments thereto.

20
(H) See Section 18 and 19 of this substitute bill.

SENATE BILL No. 262

By Committee on Federal and State Affairs

2-14

(7) 5-9

9 AN ACT enacting the efficiency in local government act; amending
10 K.S.A. 2004 Supp. 19-205 and repealing the existing section

11
12 ~~Be it enacted by the Legislature of the State of Kansas:~~

13 / ~~○ New Section 1- As used in this act.~~

(I)
As used in sections 10 through 19 of this act, and amendments thereto:

- 14 (a) "Board" means the board of county commissioners.
- 15 (b) "City" means any city.
- 16 (c) "Commission" means a reorganization study commission selected
- 17 pursuant to section 2, and amendments thereto.
- 18 (d) "County" means any county.

19 ~~||~~ ~~New Sec. 2-~~ (a) The board of county commissioners of a county and
 20 the governing body of any city or cities located within such county may
 21 adopt a joint resolution providing for the establishment of a reorganiza-
 22 tion study commission to prepare a plan for the reorganization of the
 23 county and such city or cities located in such county. If the governing
 24 body of a city within the county does not adopt such joint resolution, such
 25 city shall not be included within nor subject to the provisions of any
 26 reorganization plan in regard to the status of such city as a separate entity
 27 from the county.

28 Such resolution shall not be effective until the question has been sub-
 29 mitted to and approved by a majority of the qualified electors of the
 30 county voting at an election thereon. Such election shall be called and
 31 held in the manner provided by the general bond law.

32 (b) Any resolution adopted pursuant to subsection (a) shall provide
 33 for the establishment of a reorganization study commission and shall pro-
 34 vide either that the members be appointed or that the members be
 35 elected by the qualified electors of the county on a nonpartisan basis. If
 36 the commission is to be elected, the procedure for holding such election
 37 shall be determined by such resolution. The laws applicable to the pro-
 38 cedure, manner and method provided for the election of county officers
 39 shall apply to the election of members of the commission except that such
 40 election shall be called in the manner provided by the general bond law.

41 (c) If a majority of the qualified electors of the county voting on a
 42 resolution submitted pursuant to subsection (a) vote in favor thereof, the
 commission shall be elected or appointed as provided by the resolution.

(8) 5-10

1 The number of members on a reorganization study commission shall be
2 determined by the resolution. At least 1/3 of the membership of a reor-
3 ganization study commission shall be residents of the unincorporated area
4 of the county.

5 ~~2~~ New Sec. ~~3~~ (a) Within 30 days following the certification of the re-
6 sults of the election or appointment of members of the reorganization
7 study commission, the chairperson of the board of county commissioners,
8 acting as the temporary chairperson of the commission, shall call and hold
9 an organizational meeting of the commission. The commission shall elect
10 a chairperson, vice-chairperson and other officers deemed necessary. The
11 commission may adopt rules governing the conduct of its meetings.

12 (b) The commission shall be subject to the open meetings law and
13 the open records law.

14 (c) Members of the commission shall be reimbursed for the actual
15 and necessary expenses incurred in the performance of their official
16 duties.

17 (d) The commission may appoint an executive director of the
18 commission.

19 (e) The commission shall prepare and adopt a budget for the oper-
20 ation and functions of the commission and commission activities.

21 ~~3~~ New Sec. ~~4~~ (a) The commission shall prepare and adopt a plan ad-
22 dressing the reorganization of the city or cities and county or certain city
23 and county offices, functions, services and operations. The commission
24 shall conduct such studies and investigations as it deems appropriate to
25 complete its work. Such studies and investigations shall include, but not
26 be limited to:

27 (1) Studies of the efficiency and effectiveness of the administrative
28 operations of the city or cities and county.

29 (2) Studies of the costs and benefits of reorganizing the city or cities
30 and county or certain city or cities and county offices, functions, services
31 and operations.

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

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

41 (d) The commission shall prepare and adopt a preliminary plan ad-
42 dressing the reorganization of the city or cities and county or certain city
43 and county offices, functions, services and operations it deems advisable.

(9) 5-11

Copies of the preliminary plan shall be filed with the county election officer, city clerk of each city to be reorganized and each public library within the county and shall be available to members of the public for inspection upon request. The commission shall hold at least two public hearings to obtain citizen views concerning the preliminary plan. At least seven days shall elapse between the holding of such hearings. Notice of such hearings shall be published at least once in a newspaper of general circulation within the county. Following the public hearings on the preliminary plan, the commission may adopt, or modify and adopt, the preliminary plan as the final plan.

(e) The final plan shall include the full text and an explanation of the proposed plan, and comments deemed desirable by the commission, a written opinion by an attorney admitted to practice law in the state of Kansas and retained by the executive director for such purpose that the proposed plan is not in conflict with the constitution or the laws of the state, and any minority reports. Copies of the final plan shall be filed with the county election officer, city clerk of each city to be reorganized and each public library within the county and shall be available to members of the public for inspection upon request. The commission shall continue in existence at least 90 days following the submission of the final plan for approval at an election as provided by subsection (f).

(f) The final plan shall be submitted to the qualified electors of the county at the next general election of the county held at least 45 days following the adoption of the final plan by the commission. Such election shall be called and held by the county election officer in the manner provided by the general election law. A summary of the final plan shall be prepared by the commission and shall be published at least once each week for two consecutive weeks in a newspaper of general circulation within the county.

If a majority of the qualified electors of the county voting on the plan vote in favor thereof, the reorganization plan shall be implemented in the manner provided by the plan except that no city shall be reorganized with the county and no offices, functions, services or operations of a city shall be reorganized with the county unless such reorganization plan is approved by a majority of the qualified electors of such city voting at the election held on such plan.

There shall be printed on the ballots at any election called to approve the final plan the following statement:

"If the majority of the qualified electors of a county and the majority of the qualified electors of a city voting at the election to approve the final plan vote in favor of such plan, such city shall be included within and subject to the provisions of such plan.

If the majority of the qualified electors of a city voting at the election

1 to approve the final plan, do not vote in favor of such plan, such city shall
2 not be included within nor subject to the provisions of such plan in regard
3 to the status of such city as a separate entity from the county.”

4 If such a majority of the electors vote against such plan, the proposed
5 reorganization plan shall not be implemented.

6 If the commission submits a final plan which does not recommend the
7 reorganization of the city or cities and county or certain city and county
8 offices, functions, services and operations, the provisions of this subsec-
9 tion shall not apply.

10 / ~~4~~ New Sec. ~~5~~. (a) Any plan submitted by the commission shall provide
11 for the exercise of powers of local legislation and administration not in-
12 consistent with the constitution or other laws of this state.

13 (b) If the commission submits a plan providing for the reorganization
14 of certain city and county offices, functions, services and operations, the
15 plan shall:

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

18 (2) Provide for the method of amendment or abandonment of the
19 plan.

20 (3) Authorize the election or appointment of officers.

21 (4) Authorize the elimination of offices.

22 ~~(5)~~ Specify the effective date of the reorganization.

23 ~~(6)~~ In the case of multi-city reorganization with a county, the plan
24 shall include provisions addressing the situation if the plan is approved
25 by the electors of one, but not all cities to be reorganized under the plan.

26 ~~(7)~~ Include other provisions determined necessary by the
27 commission.

28 (c) If the plan provides for the reorganization of the city or cities and
29 county, in addition to the requirements of subsection (b) the plan shall:

30 (1) Fix the boundaries of the governing body's election districts, pro-
31 vide a method for changing the boundaries from time-to-time, any at-
32 large positions on the governing body, fix the number, term and initial
33 compensation of the governing body of the reorganized city-county and
34 the method of election.

35 (2) Determine whether elections of the governing body of the reor-
36 ganized city-county shall be partisan or nonpartisan elections and the time
37 at which such elections shall be held.

38 (3) Determine the distribution of legislative and administrative duties
39 of the reorganized city-county officials, provide for reorganization or ex-
40 pansion of services as necessary, authorize the appointment of a reorgan-
41 ized city-county administrator or a city-county manager, if deemed ad-
42 visable, and prescribe the general structure of the reorganized city-county
43 government.

(J)

(4) If such plan includes changes to the governance of the county it shall fix the boundaries of any of the governing body's election districts, provide a method of changing such boundaries, set the number of members elected by district or at-large, or to be nominated by district and elected at-large, determine whether the elections of the governing body shall be partisan or non-partisan and the time at which such elections shall be held, and fix the term and initial compensation of the governing body members.

(5) If the plan includes changes in the general administration of the county, it shall determine the distribution of the legislative and administrative powers and duties and may authorize the appointment of a county administrator or county manager.

(K)

The plan may provide for the nomination of some or all the members of the governing body from districts and their election at-large.

1 (4) Provide for the official name of the reorganized city-county.

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

4 ~~15~~ New Sec. 6 (a) If the voters approve a plan which provides for the
5 reorganization of the city or cities and county, such reorganized city-
6 county shall be subject to the provisions of this section.

7 (b) The reorganized city-county shall be subject to the cash-basis and
8 budget laws of the state of Kansas.

9 (c) Except as provided in subsection (d), and in any other statute
10 which specifically exempts bonds from the statutory limitations on bonded
11 indebtedness, the limitation on bonded indebtedness of a reorganized
12 city-county under this act shall be determined by the commission in the
13 plan, but shall not exceed 30% of the assessed value of all tangible taxable
14 property within such county on the preceding August 25.

15 (d) The following shall not be included in computing the total bonded
16 indebtedness of the reorganized city-county for the purposes of deter-
17 mining the limitations on bonded indebtedness:

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

21 (2) Bonds issued pursuant to the provisions of article 46 of chapter
22 19 of the Kansas Statutes Annotated, and amendments thereto.

23 (3) Bonds issued for the purpose of financing the construction or
24 remodeling of a courthouse, jail or law enforcement center facility, which
25 bonds are payable from the proceeds of a retailer's sales tax.

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

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

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

33 (e) Any bonded indebtedness and interest thereon incurred by the
34 city or cities or county prior to reorganization or refunded thereafter shall
35 remain an obligation of the property subject to taxation for the payment
36 thereof prior to such reorganization.

37 (f) Upon the effective date of the reorganization of the city or cities
38 and county, any retailers' sales tax levied by the city or cities or county in
39 accordance with K.S.A. 12-187 et seq., and amendments thereto, prior to
40 such date shall remain in full force and effect, except that part of the rate
41 attributable to the city or cities to be reorganized shall not apply to retail
42 sales in the cities which are not reorganized with the county. For the
43 purposes of K.S.A. 12-188, and amendments thereto, the reorganized

(L)

and such other political subdivisions as are directly affected by the consolidation.

(M)

general obligation

1 city-county shall be a class A, B, C or D city as determined by the com-
2 mission in the plan.

3 (g) Upon the effective date of the reorganization of the city or cities
4 and county, the territory of the reorganized city-county shall include:

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

7 (2) All of the territory of the county, except the territory of the cities
8 which are not reorganized with the county and the unincorporated area
9 of the county, for purposes of exercising the powers, duties and functions
10 of a city.

11 (h) For the purposes of section 1 of article 5 of the constitution of
12 the state of Kansas, the "voting area" for the governing body of the re-
13 organized city-county shall include all the territory within the county.

14 (i) Except for the reorganized city-county and unless otherwise pro-
15 vided by law, other political subdivisions of the county shall not be af-
16 fected by reorganization of the city or cities and county. Such other po-
17 litical subdivisions shall continue in existence and operation.

18 (j) Unless otherwise provided by law, the reorganized city-county
19 shall be eligible for the distribution of any funds from the state and federal
20 government as if no reorganization had occurred. Except as provided in
21 this subsection, the population and assessed valuation of the territory of
22 the reorganized city-county shall be considered its population and as-
23 sessed valuation for purposes of the distribution of moneys from the state
24 or federal government.

25 (k) The reorganized city-county shall be a county. The governing
26 body of the reorganized city-county shall be considered county commis-
27 sioners for the purposes of section 2 of article 4 of the constitution of the
28 state of Kansas and shall have all the powers, functions and duties of a
29 county and may exercise home rule powers in the manner and subject to
30 the limitations provided by K.S.A. 19-101a, and amendments thereto, and
31 other laws of this state.

32 The governing body of the reorganized city-county shall be responsible
33 for any duties or functions imposed by the constitution of the state of
34 Kansas and other laws of this state upon any county office abolished by
35 the reorganization plan. Such duties may be delegated by the governing
36 body or as provided in the reorganization plan.

37 (l) The reorganized city-county shall be a city of the first, second or
38 third class as determined by the commission in the plan. The governing
39 body of the reorganized city-county shall have all the powers, functions
40 and duties of a city of such class and may exercise home rule powers in
41 the manner and subject to the limitations provided by article 12 of section
42 5 of the constitution of the state of Kansas and other laws of this state.

43 (m) The governing body of the reorganized city-county may create

1 special service districts within the city-county and may levy taxes for serv-
2 ices provided in such districts.

3 ~~o (n)~~ Changes in the form of government approved by the voters in
4 accordance with the reorganization plan are hereby declared to be leg-
5 islative matters and subject to initiative and referendum in accordance
6 with K.S.A. 12-3013 *et seq.*, and amendments thereto.

7 ~~6~~ New Sec. ~~7~~ The board of county commissioners may levy a tax not
8 to exceed one mill on all taxable tangible property of the county for the
9 purpose of financing the costs incurred by the reorganization study com-
10 mission while executing the powers, duties and functions of such com-
11 mission. After the payment of such costs incurred by the commission any
12 remaining moneys derived from such tax levy shall be transferred to the
13 county general fund in the manner provided by K.S.A. 79-2958, and
14 amendments thereto.

15 ~~7~~ Sec. ~~8~~ K.S.A. 2004 Supp. 19-205 is hereby amended to read as fol-
16 lows: 19-205. Except as provided by K.S.A. 12-344 ~~and~~ 12-345, *sections*
17 *5 and 6, and amendments thereto*, no person holding any state, county,
18 township or city office shall be eligible to the office of county commis-
19 sioner in any county in this state.

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

27 ~~New Sec. 9. Sections 1 through 7, and amendments thereto, shall be~~
28 ~~known and may be cited as the efficiency in local government act.~~

29 ~~9~~ Sec. 10. K.S.A. 2004 Supp. 19-205 is hereby repealed.

30 ~~2 0~~ Sec. 11. ~~This act shall take effect and be in force from and after its~~
31 ~~publication in the statute book.~~

(N)

(n) The governing body of the consolidated city-county may create defined areas within the city-county for the purpose of applying city-county regulations on persons and property to encourage the preservation of land devoted to agricultural use as defined in K.S.A. 12-519(f) and amendments thereto.

(O)

Sec. 18. If any provision of this act is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision.

(P)

Sec. 20. This act shall take effect and be in force from and after its publication in the Kansas register.



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON FEDERAL & STATE AFFAIRS

Re: SB 262—Efficiency in Local Government Act.

March 3, 2005
Topeka, Kansas

Testimony presented by:
Terry D. Holdren
KFB Governmental Relations

Chairman Brungardt and members of the Senate Committee on Federal and State Affairs, thank you for the opportunity to appear before you today. I am Terry Holdren and I serve as the Local Policy Director—Governmental Relations for Kansas Farm Bureau. As you know, KFB is the state’s largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureaus Associations.

SB 262 contemplates consolidation of cities and counties in Kansas. This is an issue of great concern to our members, and one they have discussed as recently as our annual meeting last November. Many of them recognize the need to find greater efficiencies in government and realize that consolidation may provide the best opportunity to do that. Unfortunately, while we support the concept, we must, at this time, oppose this bill.

Senate Federal & State Affairs
Committee
3-03-05
Attachment 6

SB 262, as proposed, has many provisions which our member adopted policy directly supports. For example, the requirement of multiple public hearings to gather input for the consolidation plan, and the requirement of specific representation from unincorporated areas on the study commission. Our policy also supports the provisions which define tax and bonding level limits for the consolidated government. There are, however, provisions in this bill which we cannot support. We would respectfully request that you consider the following changes:

1. The final consolidation plan should be approved by a majority of voters residing in the municipality in question, and a majority of voters in the unincorporated areas of the county. This "dual majority" process for approving the plan is critical to ensure that drafters of the plan for consolidation hear and address the concerns of rural residents, and it is critical for our support.
2. At least 1/2 of the members of the commission studying consolidation should represent unincorporated areas of the county.
3. The commission should not have the authority to abolish elected positions and replace them with appointed positions.

Thank you for your attention this afternoon. KFB stands ready to assist you in crafting a plan for consolidation that benefits all residents affected.

W. Paul Degener
518 NW 56th St.
Topeka, KS 66617-1311
(785) 246-0215
willypeter@earthlink.net

SB 262

SUBJECT: SB 262, City County Consolidation

March 2, 2005

Mr. Chairman and members of the committee, my name is Paul Degener, I am a resident of suburban Shawnee County and appear here in opposition to SB 262. I am here as a concerned citizen. I thank you for allowing me to appear before this committee.

I am opposed to this legislation for the following reasons.

Cities within a county have two methods of opting out of a consolidation resolution. First, the governing body of a city may decide to reject the consolidation resolution. In the event the governing body decides to accept the resolution, the electors of that city may reject the resolution by voting against it. This is as it should be.

The problem is that the citizens of the unincorporated portion of a county do not have that luxury. According to this legislation, our votes are counted collectively with the cities within that county. Our votes are not counted separately. We are not provided an equal vote in the matter of consolidation.

Proponents of city-country consolidation contend that we should not have a separate vote because this is a democracy and the majority rules. This country was established as a republic, a representative republic, not a democracy. I am unable to find a reference to democracy in either the Kansas Constitution or the U.S. Constitution. However, the U.S. Constitution does guarantee to every state in this union a republican form of government. The citizens of the unincorporated portion of the county should have an equal and separate voice in the matter of consolidation.

New Sec. 5, (b)(3) authorizes the election or appointment of officers under consolidation. It does not specify which officers are to be appointed or elected. This could result in only the governing body being elected. We are talking about taking government out of the hands of the electorate.

Under our present form of government we enjoy a certain amount of checks and balances. We have a county commission to keep the city council in check in certain matters, and we have a city council to keep the county commission in check in certain matters. Under consolidation, we lose the security of these checks and balances at the local level.

Under consolidation, we are concentrating all of the political power in one governing body. I feel that this is a dangerous precedent. If the wrong people get elected to office we could experience a runaway government at the local level.

Thank you for your time.

Senate Federal & State Affairs
Committee
3-03-05
Attachment 7

W. Paul Degener
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HB 2083

March 1, 2005

SUBJECT; HB 2083, City-County Consolidation, Shawnee County

Mr. Chairman, members of the committee. Thank you for allowing me to appear before you.

My name is Paul Degener, I am a resident of suburban Shawnee County and appear before you as a concerned citizen in favor of this legislation.

Normally, I am opposed to city-country consolidation, however I support this legislation for the following reasons.

We have been backed into a corner by certain forces and the ambitious annexation plan proposed by the city of Topeka. Their plan decimates surrounding townships and has an adverse impact on township residents. Their plan would result in higher taxes, have an adverse impact on services we now enjoy, or both.

This legislation would impose a moratorium on unilateral annexation. This is important, because unilateral annexation in my view is unconstitutional. The U.S. Constitution guarantees each state a republican form of government, which means that each citizen of this country should have representation. Under unilateral annexation, those residents being forced into the city have NO representation. The county commissioners are left out of the loop and citizens living outside of the city limits do not vote for city council members, therefore we have no representation. This is annexation without representation.

This legislation provides for a dual vote on the consolidation plan once it is formulated. There are those who cry, that we in the county should not control the majority, that majority rules. This smacks of democracy. I cannot find in the U.S. Constitution or the Kansas Constitution any reference to democracy. However as stated earlier, the U.S. Constitution does guarantee every state a republican form of government. James Madison had this to say about democracies in Federalist No. 10:

"Hence it is that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths."

Allow us outside the corporate city limits of Topeka our chance to exercise our vote independently of the city.

The city of Topeka in the past several years has burdened itself with bonded indebtedness in excess of \$300 million dollars. This legislation and the resultant consolidation plan would relieve non-city residents of that tax burden.

I do have a few problems with this legislation.

On page 3, Sec. 4, (b)(3) states: "(3) authorize the appointment of or elimination of elected officials and offices."

On page 3, Sec. 4, (c)(2) states "Determine whether elections of the governing body..."

I gather from this that the governing body only would be elected but all other officials would be appointed. This provision would take too much government out of the hands of the people.

On page 4, Sec. 5 it states: "Shawnee County is hereby designated an urban area...."

This is a bit premature. I know of very few areas outside of the Topeka City limits that could be defined as urban.

On my street and many more outside of Topeka you will find no streetlights, no sidewalks, no sewers, and many of us are on rural water or wells. This could hardly be construed as an urban area. I would suggest that Shawnee County be declared an urban area only after the consolidation plan has been presented to the public, voted on and passed.

This legislation provides that the preliminary plan and final plan be filed with county election office, city clerk, each public library within the county and any other place designated by the commission. It further states that copies of the plan shall be available to members of the public for inspection upon request. Does this mean that the plan may be inspected on site or that the different agencies must provide a copy of the plan to be removed from the premises? I would suggest that the plan be made available on line.

KCOA



Kansas County Officials Association

To: Committee on Federal and State Affairs
Re: Senate Bill 262

Chair and Committee Members,

I am Randy Rogers, Coffey County Sheriff and Vice President of the Kansas County Officials Association. I present this testimony in opposition of Senate Bill 262 as it is written.

Some of you may not be familiar with the Kansas County Officials Association. We are an association at this time that represents the Kansas Sheriff's Association, Kansas County treasurers Association, Kansas County Clerks Association and the Kansas register of Deeds Association. The KCOA is a newly formed association; I have attached a recent press release issued by our association explaining our purpose. If any member of the committee would like further information surrounding the formation of our association please feel free to contact any of our board members.

As to SB 262 we have previously testified in the house in opposition of house bills 2094, and 2111 in regards to consolidation and would like to address similar concerns as they relate to Senate Bill 262.

Our association does not oppose the theory of consolidation and recognize the fact that this is a local issue and should be decided by citizens at a local level. We do support the fact that citizens should have all options of consolidation made available to them with accurate facts given to them to make an informed decision. By holding an election at a general bond law election may not accomplish that, as general bond law elections are traditionally a low voter turnout situation.

We would ask that SB 262 be amended to state that members of the Study Commission be elected by the voters of the county in question and that the election takes place at an election that traditionally produces a high voter turnout. By electing members to serve on the study commission citizens wishing to be involved would have the opportunity to do so and by electing members to serve on the commission would eliminate any possibility or appearance of an agenda driven or biased study commission made up of hand picked individuals.

Senate Bill 262 allows for the study commission to subpoena documents and materials held currently by county and city officials that are not of a public nature and could violate state law and open records information. This should be looked at carefully.

SB 262 allows for the abolishment of county offices and elected positions. We would ask as we did in the house that SB 262 reflect that current elected offices be retained and all statutory authorities be retained as well.

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Senate Federal & State Affairs

Committee

3-03-05

Attachment 8



Senate Bill 262 allows for the appointment of an executive director, budget preparation, reimbursement of expenses to commission members, and allows for county commissions to levy up to a one-mill tax increase. This concerns us as taxes and taxpayer dollars would be needed to pay for an executive director and related expenses. Voters should decide if a tax increase is needed to support such a commission. Therefore the question of a mill levy increase should be placed on the ballot as well.

Our association would ask that publication dates, hearing dates and related areas be addressed by requiring more time between publication notices, hearing dates and locations and that the publications be published in the largest circulation in the county not a general circulation. By doing so citizens in the county would have a greater exposure to facts and the ability to ask questions concerning consolidation.

KCOA further supports the position of a dual majority vote. As county officials we represent citizens in our counties that reside within the incorporated city limits and citizens that reside in the rural areas. Citizens in both areas should have an equal voice in regards to consolidation.

In conclusion I have attached copies of my testimony when I testified before the house committee and would ask that this committee adopt amendment that would address our concerns and would do what is perhaps best for the citizens we serve.

Sincerely,

Randy L. Rogers
Vice President
Kansas County Officials Association

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Contact:
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FOR IMMEDIATE RELEASE

Kansas County Officials Association formed

Topeka, Kan. (January 13, 2005) – The Kansas County Officials Association (KCOA) was recently formed in response to the need for effective representation of county elected officials before the Kansas legislature. The membership consists of statewide elected county officials, including sheriffs, treasurers, registers of deeds and county clerks, who have disengaged from the Kansas Association of Counties.

KCOA's top priority is to ensure that Kansas citizens' right of self-governance through the election of local officials is not impinged, restricted, or violated by legislation intended to revoke the autonomy or importance of their duties. The Association's goal is to work with Kansas lawmakers to assist in creating common sense public policy relative to county officials to guarantee the integrity of the current elective process.

Newly elected KCOA board members include: Nancy Weeks, Haskell County Treasurer, president; Randy Rogers, Coffey County Sheriff, vice president; Rebecca Bossemeyer, Geary County Clerk, secretary; and Missie Gerritzen, Kearny County Register of Deeds, treasurer.

As the 2005 session continues, the KCOA looks forward to aiding and assisting policy makers toward a common goal that will be beneficial to all Kansas county governments as well as the citizens of Kansas.

For questions or more information, contact Nancy Weeks at 620-675-2265.

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Testimony Before the House Governmental Organization and
Elections - Regarding House Bill 2094
Submitted by the Kansas County Officials Organization
February 1, 2005

Chairman Vickrey and members of the Committee: I am Randy Rogers, ^{Coffey}~~Coffey~~
County Sheriff and I am appearing here today as Vice President of the newly
formed Kansas County Officials Association. KCOA is an organization
representing statewide county officials, including sheriffs, treasurers, registers of
deeds and county clerks. I have attached a press release regarding the KCOA
formation for your review.

Thank you for the opportunity to offer comments on House Bill 2094 regarding
consolidation of counties. To insure the most voter input we would suggest that
the elections contemplated by this bill take place with voter turnout in mind. We
are not certain that elections held pursuant to the general bond law as set forth
on page one, line 32, would meet this criteria.

The study commission in this legislation can either be appointed by the county
commissioners or elected by the electors of the county on a non partisan basis.
We would respectfully suggest that to ensure the most participation from the
public that the only option should be elected members of the study commission.
This would help to alleviate any appearance of an agenda driven study
commission made up of hand picked appointees.

In reviewing this measure perhaps the most disturbing section of the bill is on
page 2, lines 36 through 41, where the study commission is empowered to issue
subpoenas, compel witness attendance and require production of documents.
While the KCOA supports voluntary local government change that is made at the
request of the county citizenry, this section of the bill contemplates resistance to
change, that would suggest anything but voluntary cooperation between local
governments.

Further than that however, the members of our organization each hold in their
trust confidential documents that are not public information and should not be
disclosed under such circumstances. As a Sheriff I am the repository for
investigative and criminal records that can not be disclosed under penalty of law.
The other members of KCOA maintain other documents such as personnel files
that would cause them to violate the law should they be disclosed. We
respectfully suggest that this particular section should be struck from the bill in its
entirety.

On page three, line 7, we would suggest that a period of 14 days, not 7 would be
a more appropriate time frame between public hearings conducted by the
commission. Additionally, on line 8 we would suggest publication at least three

times of the notice and in the paper of the largest circulation, not general circulation, to once again ensure that the largest number of citizens are being reached and informed of such a significant change in their local governing body.

On page 3, on line 29, we would once again suggest three weeks in the paper with the largest circulation.

On page 4, we question the wisdom of implementing a plan that does not include all cities in the county, particularly in western Kansas, as it would tend to isolate cities whose resources are limited, unlike the urban counties in Kansas.

Also, on page 4, lines 31 through 35, we would suggest language that mirrors the practice of the legislature in reapportioning election districts every ten years following the census, once again to ensure some predictability for voters in their election districts for a specific period of time, instead of "time to time" as set forth in this bill.

On page 6, sections (k) and (l) refer to the reorganized city- county that shall be both a county and a city respectively. How will this effect law enforcement in that jurisdiction for example in the enforcement of ordinances adopted by one of the cities in the newly reorganized entity vs. conflicting measures adopted by the previously adopted by the county?

New section 7 on page 7 authorizes a tax increase on the citizens of the county by the county commission without any vote of the citizens on the matter of the tax to fund the study commission. If the citizens of the county believe that such an endeavor should be undertaken, then the KCOA respectfully suggests that the issue of the tax increase should be placed on the ballot as a separate item. This tax increase appears to be hidden from the citizens of the county. By allowing them to vote on establishing the reorganization study commission, they are also unwittingly authorizing a tax increase that can unilaterally be imposed by the county commission.

Lastly, we would be interested in seeing a fiscal note as it applies to county and city government for HB 2094. While the State may not be affected, the costs of this measure to already economically limited local government should certainly be part of this discussion.

Thank you for your time and attention. The KCOA believes this bill needs a great deal of work to be the voluntary voter driven measure that it should be and we respectfully request that it not be passed out of this Committee without the amendments we have suggested.

HAROLD LANE
REPRESENTATIVE, 58TH DISTRICT
1308 S KANSAS AVE
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(785) 232-3610



TOPEKA

OFFICE ADDRESS
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CAPITOL BLDG—ROOM 273-W
TOPEKA, KANSAS 66612-1504
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COMMITTEE ASSIGNMENTS
MEMBER: APPROPRIATIONS
GOVERNMENTAL ORGANIZATION
AND ELECTIONS
CHAIRMAN: SHAWNEE COUNTY DELEGATION

HOUSE OF
REPRESENTATIVES
TESTIMONY


Thank you Chairman Brungardt and fellow committee members for allowing me to testify before you today. House Bill 2083 is a bill that is in response to the voters of Topeka, and Shawnee County from the past election. In November the voters approved to authorize the Legislature to create a commission to create a plan to consolidate the Topeka, KS and the Shawnee County Government.

House Speaker Doug Mays guided the delegation through the process of drafting this bill during our December meeting. Along with testimony from Shawnee county Commissioner Vic Miller, and Mayor James McClinton, the delegation by a unanimous vote of all twelve members agreed to this bill.

Sec. 2 lays out how the commission would be created. They will be appointed by leaders of the Senate, and the leaders of the House, and the Governor for a total of five members. The timeline for the commission once formed are clearly laid out in the bill. Once the commission has held the public hearings on the proposed plan, the plan will go before the voters by a special election to be by mail ballot. The plan will have to be approved by the Voters of Shawnee County, and by the majority of the voters of Topeka.

Section 9 provides for a temporary moratorium on unilateral annexation during the time the commission is meeting. All other kinds of annexation are allowed. There is a sunset provision set for June 30, 2006. House Bill 2083 passed out of the House by a vote of 118 to 2 on February 4, 2005. Thank you again for hearing my testimony and I will gladly stand for questions.

Senate Federal & State Affairs
Committee
3-03-05
Attachment 9


Harold Lane
State Representative
District #58

November 2, 2004

COUNTY CONSOLIDATION COMMISSION QUESTION

SHALL THE FOLLOWING BE ADOPTED?

Shall a consolidation commission be appointed to recommend a plan of consolidation of Topeka, Kansas and Shawnee County governments or the consolidation of certain offices, functions, services and operations thereof?

- YES
- NO

CITY OF TOPEKA COUNCIL-MANAGER QUESTION

SHALL THE FOLLOWING BE ADOPTED?

Shall Charter Ordinance No. 94 changing the form of government from a strong mayor-council form to a council-manager form entitled: "A Charter Ordinance introduced by Councilmembers Lisa Stubbs, Bill Haynes, Duane Pomeroy, Jeff Preisner, and Gary Price relating to a change in the form of government for the City of Topeka, Kansas, repealing Charter Ordinance Numbers 65, 66, 72, 73, 75, 87, 90, and 92 and any other ordinance in conflict herewith" take effect?

- YES
- NO

TOPEKA, TECUMSEH AND MONMOUTH TOWNSHIPS FIRE DISTRICT QUESTION

SHALL THE FOLLOWING BE ADOPTED?

Proposition to create a new fire district consisting of all land within the boundaries of Topeka Township, Tecumseh Township, and Monmouth Township.

- YES
- NO

TECUMSEH TOWNSHIP LAND QUESTION

SHALL THE FOLLOWING BE ADOPTED?

Shall Tecumseh Township, Shawnee County, Kansas, be authorized to spend \$12,000.00 plus closing costs to purchase approximately eight (8) acres immediately west of the existing township road department to be used for township purposes including the storage of township equipment, as authorized by K.S.A. 80-104, 2003 Supp. as amended by Session Laws Chapter 166?

- YES
- NO

ROSSVILLE TOWNSHIP ROAD MAINTENANCE QUESTION

SHALL THE FOLLOWING BE ADOPTED?

Shall the Rossville Township assume control and responsibility for the maintenance, repair, and construction of all township roads in Rossville Township, Shawnee County, Kansas?

- YES
- NO

AUBURN CITY QUESTION

SHALL THE FOLLOWING BE ADOPTED?

Shall City of Auburn Charter Ordinance No. 3, entitled "A Charter Ordinance exempting the City of Auburn, Kansas from the provisions of K.S.A. 41-712 prohibiting alcoholic liquor sales on Sunday and certain holidays", relating to the retail sale of intoxicating liquors and beverages, as passed and approved by the Council of the City Auburn, Kansas on July 6, 2004, take effect?

- YES
- NO

ANN E. MAH

REPRESENTATIVE, 53RD DISTRICT
 3351 SE MEADOWVIEW DR.
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STATE CAPITOL BUILDING—ROOM 273-W
 TOPEKA, KANSAS 66612-1504
 (785) 296-7690



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 EDUCATION
 FEDERAL AND STATE AFFAIRS
 WILDLIFE, PARKS AND TOURISM

Testimony - HB 2083
 Senate Committee on Federal and State Affairs

Thank you for the opportunity to present this written testimony in support of HB 2083. This bill implements the wishes of Shawnee County voters who asked the legislature to form a commission to recommend a consolidation plan for the county and city governments. The bill was a result of bipartisan support on the Shawnee County delegation. I want to speak to just two issues in the bill that have been hotly debated.

The first is the moratorium on unilateral annexation until the plan is voted on in April 2006. The city of Topeka is considering a massive unilateral annexation plan that would bring tens of thousands of county residents into the city. To say this plan is opposed by the county residents is an understatement. Standing-room-only town hall meetings have been held in nearly every township involved.

A moratorium on unilateral annexation (but not other forms of annexation) ensures that the commission can bring forth a plan that was not developed while trying to hit a "moving target". The commission cannot develop a comprehensive plan if the municipal boundaries are changing during the planning phase.

A moratorium also will reduce the emotions on both sides of the annexation debate and allow citizens to focus on consolidation. If unilateral annexation plans proceed throughout 2005, the county residents will be fighting the city and most likely not be receptive to a positive vote on consolidation in 2006. Also, city officials indicated to the Shawnee County delegation during our initial deliberations that a moratorium would be acceptable, if there was a date certain for the end of the moratorium. This bill satisfies those concerns.

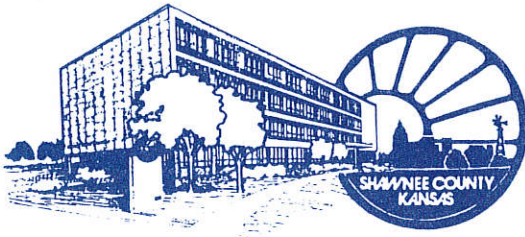
The second issue is that of requiring a dual vote, where both city and non-city residents must approve the consolidation plan. This serves two purposes. First, it ensures that the commission develops a plan that is acceptable to both city and non-city residents. Second, it ensures that non-city residents give the plan serious consideration, because if they reject the plan, they will be facing unilateral annexation again.

Thank you for your consideration on HB 2083. It is a fair and reasonable plan that will respond to the wishes of the Shawnee County voters and ensure that all citizens' concerns are addressed.

Senate Federal & State Affairs

Committee

3-03-05Attachment 10



Shawnee County Board of Commissioners

Rm. B-11, Courthouse Topeka, Kansas 66603-3933

Marice Kane, 1st district

Vic Miller, 2nd district

Theodore D. Ensley, 3rd district

(785) 233-8200 ext. 4040, Fax: 785-291-4914

E-Mail: Commission@co.shawnee,ks.us

Network Address: www.co.shawnee,ks.us

January 25, 2005

Thank you Mr. Chairman and members of the committee. My name is Vic Miller. I currently serve as Chairman of the Shawnee County Commission although my testimony today is my own and not on behalf of the Commission. I support HB 2083 and urge your timely action to advance the bill to the full House. Representative Gordon is to be commended for building consensus of our Shawnee County Legislative delegation. I believe this bill accurately reflects that consensus.

Having served eight years as Topeka City Councilman and eight years as Shawnee County Commissioner, I am convinced that duplication of costs and services does exist and can be eliminated through consolidation of these two governmental units. We are not Kansas City nor Wyandotte County and what works there will not necessarily work here. But I have confidence that a body of five Shawnee Countians, the appointment of which is provided for in this bill, can devise a plan that will fit the needs of our community as well as receive the support of both a majority of Topekans and non-Topekans.

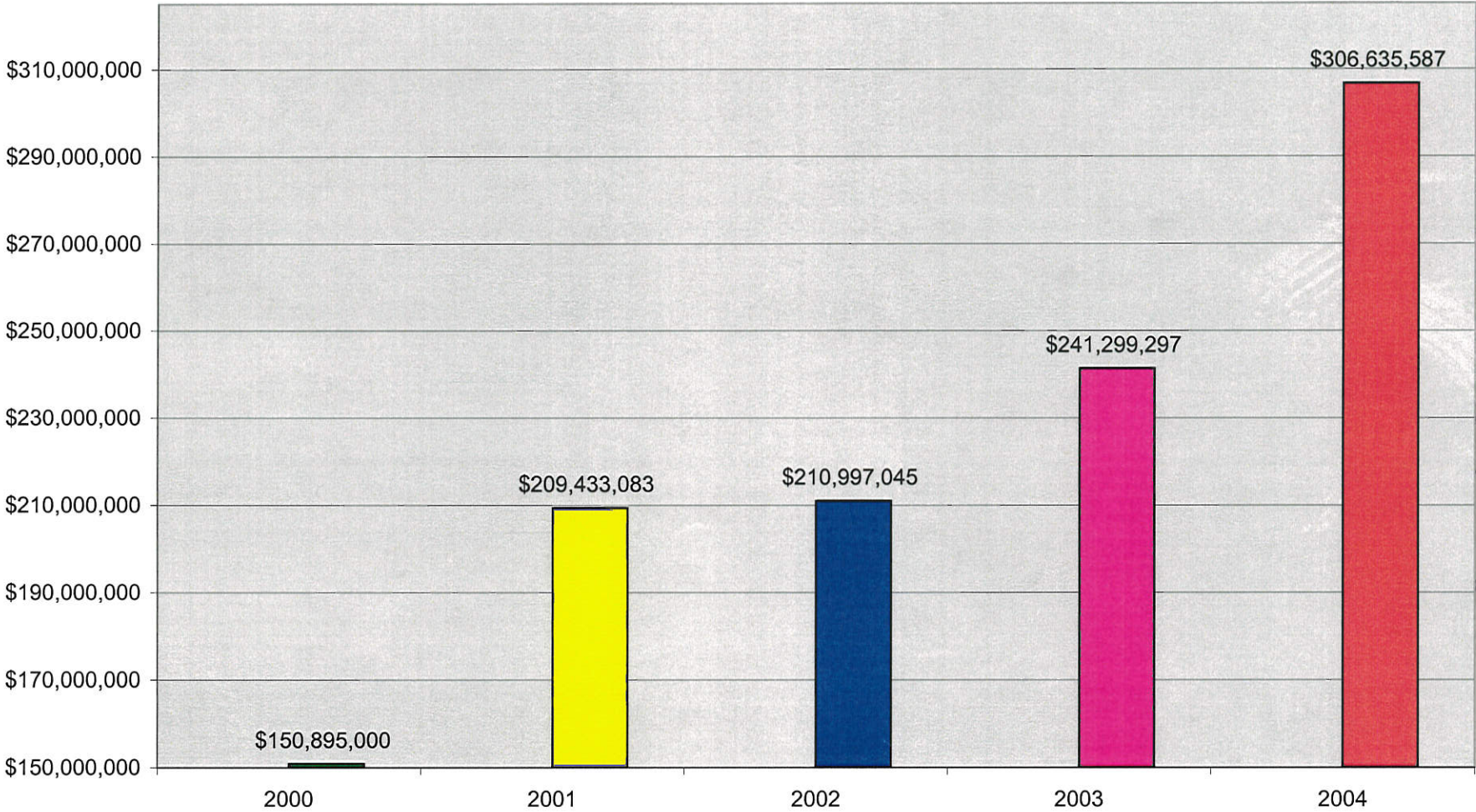
I know there are residents of Shawnee County who live outside Topeka's city limits who fear they will be overwhelmed by the more populous city. However, the requirement that approval come both from inside and outside the City provides a necessary safeguard for the minority.

I know the City objects to the short moratorium on unilateral annexation that will exist while the consolidation commission completes its work. However, I don't recall a single unilateral annexation in our City in the last fifteen years. I believe, and I think our local legislators agree, that efforts to unilaterally annex coincidental to a consolidation effort would be disruptive, divisive and confusing to the process. In the interim, the City would not be unduly inhibited in its efforts to expand, having completed more than 30 annexations in just the last four years without the use of its unilateral powers.

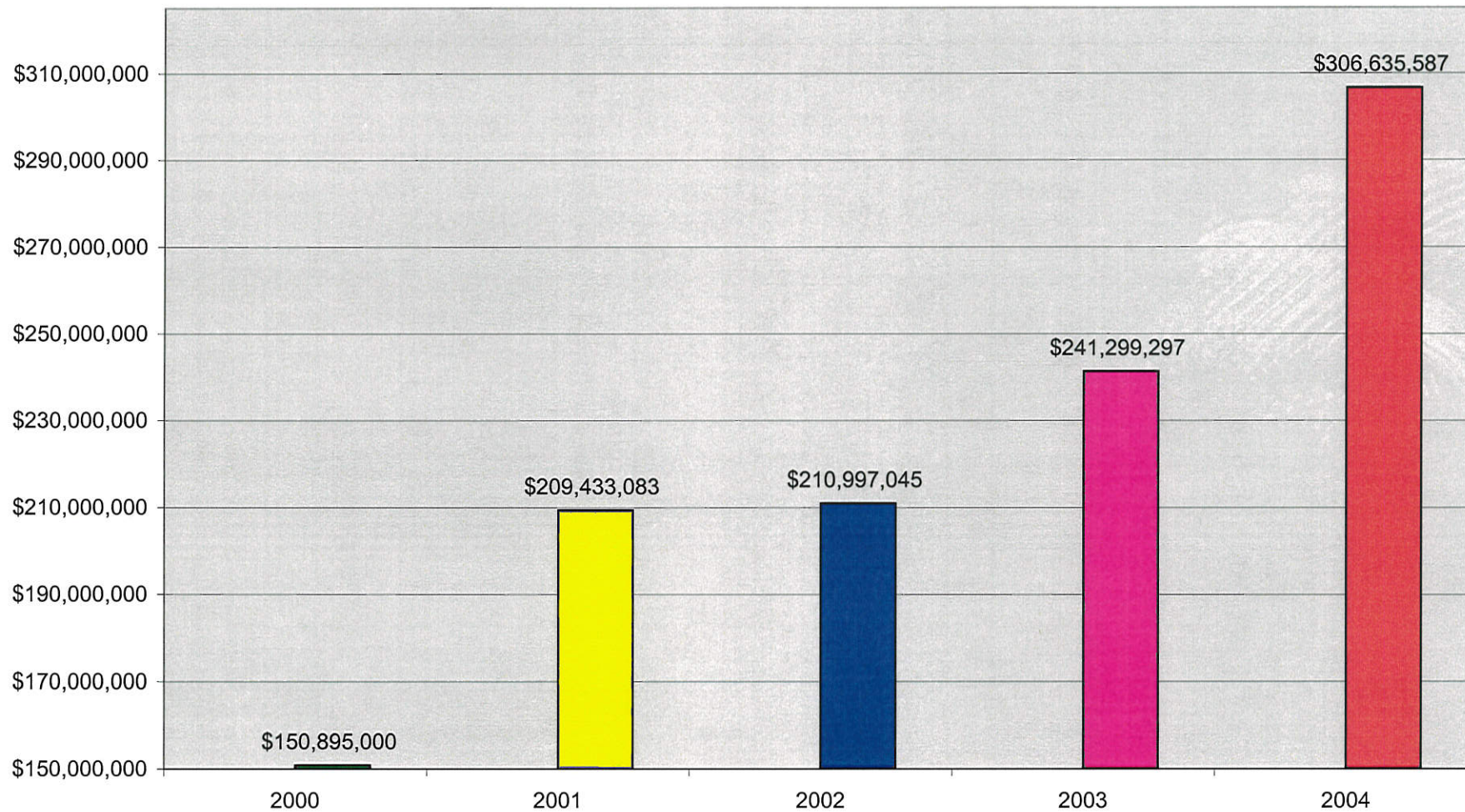
In short, the voters of Shawnee County have made it clear they wish to move ahead on this issue. Timing is everything and the time to capitalize on the momentum to do so is now. HB 2083 provides for that opportunity.

Senate Federal & State Affairs
Committee
3-03-05
Attachment 11

City of Topeka Indebtedness



City of Topeka Indebtedness



The right idea

9-4-84

The idea of consolidating some of the operations of city and county government has been kicked around for some time. But until the county commission passed a resolution recently to form a task force to study the subject, the city had been doing most of the kicking.

This new interest by the county follows on the heels of a decision to explore a joint law enforcement center for city police and the county sheriff's department.

In a county like Shawnee, where the population is concentrated in one major metropolitan area, consolidation of services and operations for the two governing units makes both fiscal and political sense. Of course, it won't work for every department. But there are several areas where programs could be strengthened

and/or streamlined by merging two similar operations. Law enforcement is a prime example; so, too, is recreation.

Consolidation, in cases such as those, would eliminate much of the duplication that exists under the current arrangement. And unnecessary duplication is expensive — which translates into higher taxes.

So the decision of the county commissioners to pursue the subject is a welcome move. Let's hope that it was precipitated by genuine interest in pursuing the subject and not handed out merely as an election-year placebo that will be retracted after November.

City-county consolidation is a topic that needs to be explored seriously — and the sooner, the better.

January 25, 2005

The Honorable Jene Vickrey, Chairperson
House Committee on Governmental Organization & Elections
Statehouse, Room 115-S
Topeka, Kansas 66612

Dear Representative Vickrey:

SUBJECT: Fiscal Note for HB 2083 by Representative Lane, et al.

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2083 is respectfully submitted to your committee.

HB 2083 would create a five-person Consolidation Commission to prepare and adopt a plan addressing the consolidation of the governments of the City of Topeka and Shawnee County. The Commission would appoint an executive director who would employ other staff necessary to carry out the functions of the Commission. The bill outlines the procedures the Commission must undergo to provide ample public hearing and notification of a final proposal, as well as provide for statutory definitions for the new consolidated government. The final plan would be submitted to the qualified electors of the county in an election by mail ballot. The bill stipulates that the Cities of Auburn, Rossville, Silver Lake and Willard, as well as any unincorporated areas of the county would not be affected by consolidation, if it were to take place. HB 2083 would expire on June 30, 2006.

According to the Kansas Association of Counties and the League of Kansas Municipalities, enactment of HB 2083 would have an effect on only the City of Topeka and Shawnee County. Any additional expenses for the Commission and election would have to be paid by these two local governments. Presumably, future operating costs to administer the two separate governments would decrease with consolidation.

Senate Federal & State Affairs
Committee
3-03-05
Attachment 12

The Honorable Jene Vickrey, Chairperson
January 25, 2005
Page 2—Governmental Organization & Elections

By way of example, \$150,000 was spent on the Kansas City, Kansas and Wyandotte County consolidation from FY 1996 to FY 1998. The financing was provided in equal amounts of \$50,000 by the city, the county, and EDIF funds from the Department of Commerce and Housing.

Sincerely,

Duane A. Goossen
Director of the Budget

cc: Kim Gulley, League of Kansas Municipalities
Judy Moler, Kansas Association of Counties