

MINUTES OF THE HOUSE ELECTIONS AND GOVERNMENTAL ORGANIZATION COMMITTEE

The meeting was called to order by Chairman Mike Burgess at 3:30 P.M. on March 21, 2007 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Legislative Research Department
Matt Spurgin, Legislative Research Department
Mike Heim, Revisor of Statutes Office
Maureen Stinson, Committee Assistant

Conferees appearing before the committee: n/a

Others attending:

See attached list.

SB 321 Fort Scott/Bourbon county river front authority act

Representative Vickrey made a motion for the favorable passage of **SB 321** and to amend with a clarifying amendment relating to equipment, land, etc. Representative Lane seconded the motion. The motion carried.

HB 2573 Election of public employer-employee relations law by resolution of city or county voters

Representative Lane made a motion for the favorable passage of **HB 2573**. Representative Peterson seconded the motion. A division was called and the motion carried 8 to 6.

Martha Dorsey, KLRD, presented an overview of units of local government in Kansas (Attachment 1).

Joan Wagon, Secretary of the Department of Revenue and Chair, Kansas Advisory Council on Intergovernmental Relations (KACIR), briefed the Committee on consolidation of local governments (Attachment 2). She explained that **HB 2434** and **SB 378** are identical bills which promote inter-local agreements as a vehicle for sharing revenue among cooperating counties. Secretary Wagon informed that the KACIR is asking that the Committee request an interim study on **HB 2130** (Municipalities; consolidation and reorganization; political and taxing subdivision).

Tim Norton, Sedgwick County Commissioner, addressed the Committee. No written copy of his briefing was submitted.

Thomas Wright, former Chair of the Topeka and Shawnee County Consolidation Commission, informed the Committee that presently, two taxing units cannot merge without special legislation (Attachment 3). Mr. Wright said that **HB 2130** is a good start on the important step of streamlining government.

Allyn Lockner, retired economist and management and systems analyst informed the Committee that a strategy is needed to enable elected local officials, community leaders, and voters in local regional communities throughout Kansas to choose, through consensus, what they consider to be the best mix between, on one hand, joint services cooperation and services contracts, and on the other hand, structures consolidation (Attachment 4). He explained that this mix varies among communities and depends on the different major issues and goals for resolving the issues in each community.

Representative Sawyer made a motion for the approval of the minutes for March 20, 2007. Representative Horst seconded the motion. The motion carried.

The meeting was adjourned.

KANSAS

Submitted by:
Martha Dorsey
KLRD

LOCAL GOVERNMENT

LAW

**Third Edition
2005**



League of Kansas Municipalities

Printed and Published in Association with the
League of Kansas Municipalities
300 SW 8th Avenue
Topeka, Kansas 66603

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House Elections & Gov. Org.
Date: 3-21-2007
Attachment # 1

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K A N S A S

JOAN WAGNON. SECRETARY

DEPARTMENT OF REVENUE
OFFICE OF THE SECRETARY

KATHLEEN SEBELIUS. GOVERNOR

March 21, 2007

Briefing for House Elections and Governmental Organization Committee Joan Wagon, Chair, Kansas Advisory Council on Intergovernmental Relations

Take a hard look at Kansas. Like many of our neighboring states, IA, NE, we have a lot of local government but not so many people. And we like our local governments.

- Population is not evenly spread throughout the state – some areas are growing, but others are declining and have been for 100 or more years.
- Property taxes are rising – or rather, creeping upward.
- We have lots of local governmental units. Perhaps more than all but 4 states. Every source has different numbers, but it is clear, we have a lot!
 - 105 counties, 62 of which have populations under 10,000
 - Approximately 1350 townships (counts vary from 1299 in the 2002 census to 1308 in the LKM directory. Some exist on paper but fail to function; others are quite active. (See listing of townships in the attached materials and amounts of levies.)
 - 305 School Districts
 - Numerous cemetery, fire, park, transportation, sewer districts.
 - A couple of bills in this legislative session to create more districts, including natural resources districts.

As legislators, you don't have many people knocking at your door saying Kansas has too many units of government. But you do have people saying, "My property taxes are too high!" I spoke to a group of 150 such folks in Wellington last weekend with the same message.

Former Senator Dave Kerr tried to provide some help on the issue of consolidation with last year's SB 379. As it finally passed, counties could consolidate, but the larger issue of city-county consolidation was silent.

Legislators seem fearful of constituent backlash if the legislature "loosens the reins" on consolidation, but across the state, local groups are asking for such authority. Many of the people see consolidation as a way to lower their property taxes and lessen some of the burden of government. Others see it as an encroachment by larger governments on rural areas.

Iowa Governor Vilsack proposed a statewide consolidation of local governments, collapsing their 90 counties into about 30. It was a hastily constructed plan and failed quickly. (see attached article.) At the same time, two city-county consolidations in Des Moines and Topeka also failed. But the very successful consolidation of Kansas City, KS and Wyandotte County has produced

remarkable results – a consolidation of leadership producing economic growth, and a lowering of property taxes. And in every large area where consolidation has succeeded – Nashville, Miami, Indianapolis – this has been the result.

The underlying argument in most of these consolidation attempts, including Iowa, was that a stagnant or shrinking tax base cannot serve an aging, static population, and that those problems are exacerbated by redundant layers of government. If high property taxes retard growth, then how do you lower them and still serve the public?

So – what’s the answer to this conundrum?

The KACIR has tried to focus on this issue, as directed by the 2002 LPA and further work by its members. We have commissioned studies on tax base erosion. We held a Summit on Consolidation in November, 2006 in Salina attended by more than 100 people, including elected officials. A detailed summary of the summit is included in the article on Consolidation in the Kansas Government Journal.

The answer, we have concluded is removing barriers to local consolidation and allow and encourage local governments to collaborate or consolidate – which ever best suits their needs.

A state-imposed, top-down solution won’t work. Terry Woodbury, keynote speaker for the Salina Summit commented that Mayor Marinovich “wore out the word, partnership.” They sold consolidation in their community. The legislature passed a bill to let them do it in accordance with local wishes. There was no dual majority requirement or it would have failed. And it worked.

The 2006 Interim on Taxation produced a report (attached) about barriers to consolidation. That report is incorporated into H 2130. Obviously it’s too late this session to act on that bill, but it is extremely important. The KACIR is asking you to request **an interim study on H2130**. If it had passed, there would have been no need to pass the Tribune/Greely County consolidation bill.

In terms of barriers, dual majority is a huge barrier.

There is a question about townships that should be resolved.

The law allows consolidation of governmental function, but not the units. So – what about 2 special districts that wish to combine? This should be resolved, and it is in H2130.

The KACIR is also undertaking this year a special study of townships. But, we need data electronically. Thanks to the Chairman for introducing H2331 which requires electronic filing of budget information.

Currently, 28% of all budgets are submitted electronically – 20% from counties, 29% from cities, 42% from townships, 6% from USD’s and 21% from all other. So – if we can get all the township budgets electronically, we will be able to do much more analysis. KACIR is discussing asking the Hugo Wall Center to do a township study for the next session of the legislature.

H2434 and S378 are identical bills which promote interlocal agreements as a vehicle for sharing revenue among cooperating counties. These are very important bills and serve as a model for

...er county cooperation. Sometimes, cooperation is preferable to consolidation. Again, the legislature needs to provide models, and remove barriers for this cooperation to occur.

In recent meetings of a business advisory group (Nov/Dec. 2006) that was working on the Governor's tax initiative this session, they also listed consolidation as a primary objective in creating a more effective climate for business growth.

It's time for the Kansas Legislature to remove the remaining barriers to consolidation and cooperation, and let local governments organize in ways to adapt to changing demographics and to create greater efficiencies.

Steven Goldsmith, former Mayor in Indianapolis often quotes President George Bush in a campaign appearance saying, "... we need to change government, we need to modify government, but even those of us who believe in small government should also believe in efficient government." Goldsmith's point was that if government is going to deliver a public service, it should do it efficiently.

My point in quoting this is to say that our local governments cannot be efficient if we continue to tie them to a century and a half old idea about organizing local government services. The notion that the county seat should be no more than a day's ride by horseback is certainly outmoded.

Lets give government the tools they need to be efficient, effective and meet the needs of the people. They know best – not us in Topeka—what will work. Remove the barriers.

A handwritten signature in cursive script, appearing to read "John Wozniak". The signature is written in dark ink on a white background.

Submitted by:

Lynn Robinson 296-7928

Thomas E. Wright
Topeka, KS

Consolidation Commission of Topeka, Kansas and Shawnee County.
Testimony of Thomas E. Wright, former Chairman of the Commission.

In a November 2, 2004 election Shawnee County voters approved the appointment of a consolidation commission to "... recommend a plan of consolidation of Topeka, Kansas and Shawnee County governments or the consolidation of certain offices, functions, services, and operations thereof". The question passed with 44,364 of the voters countywide in favor and 30,665 against. 59% living outside the city opposed the measure. Within City limits, 68% favored the ballot question.

HB 2083, passed by the 2005 Kansas Legislature, specified membership and administrative requirements for the Commission;

Five members were to be appointed by the Governor and legislative leadership. I was on the Commission along with Dennis Schwartz, Harry Craig, Jr, Onis Leron and Roger Toelkes. Trudy Racine, formerly SRS Chief of Staff was hired as the Executive Director.

Many of the specific requirements about the plan are identical to those in this proposed bill under consideration today.

Very briefly, the Commission between April 28, 2005 and publication of the preliminary plan June 21, 2005 concentrated on gathering information. From publication of the plan June 21 the Commission concentrated on providing information to the public and the media. After publication of the Final plan November 1, 2005 until the election December 15, 2005 the Commission members continued to provide information to the public and private groups that campaigned on behalf of the plan's adoption.

The Consolidation Commission met 33 times from April 28, 2005 to the final meeting November 9, 2005. The commission members individually met with individual groups on request. Those meetings numbered in the hundreds. Attendance varied from a handful to several hundred. The local public media was generous in coverage including free handouts of the Plan by the Topeka Capitol Journal. There were several televised presentations where the public could call in questions or comments.

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Attachment # 3

In addition to the meetings the Commission maintained a web site where interested persons could comment or participate in polls.

Ballots were mailed on November 26, 2005, containing the following question:

Shall the following be adopted?

Shall the governments of Shawnee County, Kansas and Topeka, Kansas, be consolidated into a single governmental entity, know as "the Unified Government of Topeka and Shawnee County, in accordance with the Final Plan for Consolidation adopted by the Consolidation Commission of Topeka, Kansas and Shawnee County?

Yes No.

70% of the voters who lived within the Topeka city limits voted to adopt the consolidation proposal and almost 30% opposed the question, but only 40% of the voters who lived in the unincorporated area of Shawnee County's townships voted in favor of consolidation while the remaining 60% were opposed. The question failed. The Summary is as follows

Township Consolidation:

Precincts Reporting	201/201	100%
Ballots Cast/Reg Voters	21,041/32,498	64.75%
Total votes	21,041	

Yes 8382 39.84%

No 12,659 60.16%

Topeka

Precincts Reporting	201/201	100%
Ballots Cast/ Reg. Voters	32,342/70509	45.87%
Total Votes	32,342	

Yes 22,793 70.47%

No 9549 29.53%

The supporters of consolidation came from all parts of the political spectrum. Those who want to cut down the number of governmental employees. While Kansas is 29th in State government employment with 163 FTE per 10,000 population it is 3rd in local government at 476.7 FTE per 10,000 population. Kansas has more units of local government than all but four states- California, Illinois, Pennsylvania and Texas. We have fire, drainage, watershed, library, water, sewer, road, township, school, cemetery, and other taxing districts.

Combining functions or units meets resistance from officials who are elected to those units. Voters want to cut down on the number of governmental employees without realizing that the governmental employees are not just at the city county and state.

As you know, presently two taxing units can not merge without special legislation. (See 19-101a Home Rule Powers, 18-202 Petition and Notices for Change of Boundaries and 12-3909 Governmental Organization)

House Bill No. 2130 is a good start on this important step of streamlining government.

LOCAL GOVERNMENT CONSOLIDATION AND ALTERNATIVES IN KANSAS

March 21, 2007

Allyn O. Lockner*

Submitted by:
Allyn Lockner
Topeka, KS

This paper contains ideas for authorizing elected local officials and voters to change their local governments in Kansas. It does this by discussing ideas for improving House Bill 2130 that is being considered by the 2007 Kansas Legislature. Before discussing the ideas, the paper summarizes the foundation of the ideas.

For clarity and convenience purposes in the paper, "consolidation" includes "merger, unification, etc." "Services consolidation" includes consolidation of "operations, procedures and functions of offices and agencies." "Structures consolidation" includes consolidation of local governments or "political and taxing subdivisions."

Overlap Between Services Consolidations, and Joint Services Cooperation and Contracts

HB 2130 authorizes two types of consolidation. Under services consolidation, separated local governments consolidate their individual services, but remain separate governments. Under structures consolidation, separated local governments consolidate their structures [including all their services] and form a new consolidated local government which replaces the separated governments.

KSA 12-2901 et seq. [the Interlocal Cooperation Act] authorizes local governments to provide jointly a service that each has the authority to provide independently. The authorization is very broad. Several different possible arrangements of cooperation exist for providing a joint service, including an arrangement where one government provides a service for one or more other governments. KSA 12-2908 authorizes any city, county or township to contract with any other city, county or township to perform any service or undertaking that each is authorized to provide.

Overlap exists between Sections 9 through 14 of HB 2130, and KSA 12-2901 et seq. and KSA 12-2908. The authorization of services consolidations under HB 2130 can be replaced effectively by the current broad authorization of joint services under KSA 12-2901 et seq. and contracts under KSA 12-2908. A statute authorizing services consolidation is unneeded when a statute authorizing joint services cooperation exists. At the same time, clarity is achieved when consolidation is limited to structures consolidation and joint services cooperation is an alternative to structures consolidation.

Diverse Contexts of Local Government Consolidations

The Kansas Advisory Council on Intergovernmental Relations [KACIR] identified the need to study consolidation issues. It stated these issues, among others, include the need for "Proven, successful consolidation models from other states/localities for Kansas local governments." [2006 Annual Report, page 22] Generally speaking, a "model" is to be copied, followed or imitated because of its excellence, worth, etc.

Much has been written about the consolidation of local government services and structures in states and localities in the United States. But to my knowledge, "... proven, successful consolidation models ..." do not exist." More specifically, there does not exist:

1. a proven, successful model of state local government consolidation legislation which can be adopted by the Kansas Legislature.
2. a proven, successful model of local government consolidation which can be adopted by Kansas local governments.
3. a proven, successful model of local government consolidation study and consolidation plan preparation, adoption and marketing which can be adopted by Kansas local governments.

The absence of these models is due largely to the diverse contexts that exist in and around local governments in the local regional communities of Kansas and the United States. "Contexts" are the situations, backgrounds or environments in these communities. Diverse contexts affect currently existing and probable future local government services and structures. Several diverse contexts exist. Three illustrative categories of these contexts are interlocal government relations, local government service performance, and economic base of the community.

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The diverse contexts are a significant reason why individual consolidation case studies comprise most of the consolidation research. Because of the diverse contexts, very few generalizations from these studies can be confidently applied to structures consolidations in Kansas.

Ideas for Improving HB 2130

Based on the overlap between services consolidation and joint services cooperation and contracts, and on the diverse contexts of local regional communities, the following ideas apply to HB 2130:

1. Remove from sections 9 through 14 of HB 2130 all references to services consolidation and utilize existing authorizations for joint services cooperation under KSA 12-2901 et seq. and KSA 12-2908, the Interlocal Cooperation Act. Any services consolidations under Sections 9 through 14 are better achieved by joint services cooperation under the wide statutory authority of the Interlocal Cooperation Act. HB 2130 is limited to "structures consolidation." The Interlocal Cooperation Act can be amended if it does not address all the topics necessary to initiate and conduct joint interlocal services cooperation and to serve as a full substitute for Sections 9 through 14 of HB 2130.
2. Avoid disincentives to structures consolidation. Disincentives repel consolidation. They include any provisions that block, delay or discourage consolidation, such as Sections 2(c), 4(a)(1) and 4(a)(2) of HB 2130 requiring membership on the consolidation study commission, efficiency and effectiveness studies, and cost-benefit studies. The issues to be resolved and the goals to be achieved may or may not require these sections. [Although not contained in HB 2130, the dual majority vote requirement is a near "poison pill" for consolidation.]. These and other features of consolidation are best chosen by the local consolidation study commissions who best know their local regional communities and what is required to achieve consensus and successful consolidation. Structures consolidation already has inherent complexities and difficulties. It does not need to bear additional required statewide burdens.
3. Remain neutral about structures consolidation by steering a middle course between disincentives and incentives. Remain neutral by deleting Sections 1 through 8 of HB 2130 and replacing Sections 9 through 14 of the bill with uniform minimum statewide specifications for all authorized structures consolidations. For example, these specifications would:
 - a. Authorize the types of governments that undertake structures consolidation.
 - b. Require elected local governing bodies or local voters by petition to initiate consolidation study.
 - c. Require local governing bodies or local voters by petition to choose members of the consolidation commission.
 - d. Authorize consolidation commission to study consolidation; prepare the preliminary plan, including but not limited to the issues to be resolved and goals to be achieved by consolidation; obtain public comments on the plan; revise the preliminary plan; and to adopt and market the final consolidation plan.
 - e. Authorize up to a one mill levy on the valuation of taxable tangible property to pay the costs incurred by the consolidation study commission.
 - f. Authorize consolidation commission to adopt a budget; employ executive director and staff; to utilize research, meetings, hearings, and consultants; administer oaths; subpoena witnesses; and use other methods to collect and analyze information for the study and plan.
 - g. Authorize reimbursement for expenses incurred by consolidation commission members.
 - h. Authorize creation of special service districts and the levying of taxes by the districts to pay for special services of the consolidated government.
 - i. Authorize creation of special debt districts to ensure that bonded indebtedness and related interest remains the obligation of the property subject to taxation prior to consolidation.
 - j. Authorize election or appointment of the county clerk, register of deeds, treasurer and/or sheriff [if applicable].
 - k. Authorize the preliminary and final consolidation plans to specify the size, qualifications, election, terms, compensation, duties and powers of the governing body, and the selection, qualifications, duties and powers of the chairperson and manager of the consolidated government.
 - l. Authorize the preliminary and final consolidation plans to state the process of managing the transition to the consolidated government.
 - m. Authorize the amendment of the final consolidation plan by the consolidated governing body.
 - n. Authorize minority reports, if any, on the final consolidation plan.
 - o. Require the effective date of the consolidated government.

- p. Require filing of preliminary and final consolidation plans with the county elections officer and county clerk of each county and, if applicable, with the city clerk of each city, and with each public library in each county.
- q. Require a severability clause in the preliminary and final consolidation plans.
- r. Require written certification by a Kansas licensed attorney that the final consolidation plan complies with the Kansas Constitution and Kansas Statutes Annotated.
- s. Require preparation and publication of the ballot question on final consolidation plan in newspapers of general circulation in the counties at least two weeks before the date voters vote on the plan.
- t. Require a simple majority vote in each government jurisdiction to be consolidated in order to approve final plan implementation.

Uniform minimum statewide statutory specifications for all structures consolidations will provide elected local governing officials, community leaders, consolidation commissions, and voters with the leeway they need to negotiate and tailor structures consolidations that fit the diverse contexts of their local regional communities. They may choose to adopt specifications that are higher than the uniform minimum statewide authorization specifications. Tailoring beyond these specifications increases the chances of consensus and successful consolidations. Neutrality neither repels nor propels structures consolidations.

The following consolidation statutes may also require review and perhaps revision: county-county structures consolidations [KSA 18-201 et seq.]; city-city structures consolidations [KSA 12-301 et seq.]; and school district – school district structures consolidations [KSA 72-8701 et seq.].

- 4. Provide incentives to structures consolidation in addition to the elements discussed under #3. Incentives propel consolidation. Recent statements and writings have concluded that Kansas has too many local governments. State incentives are based on the idea that modernizing local government can benefit state government and can be encouraged by it. Incentives can take the form of matching state-local grants for consolidation studies, technical assistance during studies, financial awards and community recognitions for completed consolidations, etc. State and local governments are partners in achieving structures consolidations in those communities that want it.

These ideas are consistent with recent research on consolidation and alternatives in the United States. They are also consistent with conclusion and recommendations contained in the performance audit report entitled Local Governmental Reorganization: Assessing the Potential for Improving Cooperation and Reducing Duplication, A Report to the Legislative Post Audit Committee by the Legislative Division of Post Audit, State of Kansas, September 2003, 47+ pages.

Conclusions on Ideas for Improving HB 2130

A strategy is needed to enable elected local officials, community leaders and voters in local regional communities throughout Kansas to choose, through consensus, what they consider to be the best mix between, on one hand, joint services cooperation and services contracts, and, on the other hand, structures consolidation. This mix varies among communities and depends on the different major issues and goals for resolving the issues in each community. In some communities the issues and goals can be addressed successfully through joint services cooperation and services contracts. In other communities, they can only be addressed successfully through structures consolidation.

The best strategy for enabling elected local officials, community leaders and voters to achieve a consensus mix is the combination of ideas #1, #2, #3 and #4. The next best strategy is the combination of ideas #1, #2 and #3. Joint services cooperation and services contracts between governments are better alternatives than structures consolidation for addressing individual service performance problems between governments. Structures consolidations are more suitable for addressing all service performance problems of separate local governments through their full consolidation, including all services. Whatever the mix, the ideas better enable Kansans in each local regional community to choose whether and, if so, how to change their local government services or their separate local governments in order to resolve their issues and achieve their goals.

This paper was shared with the Kansas Advisory Council on Intergovernmental Relations and with the House Elections and Governmental Organization Committee of the Kansas Legislature on March 21, 2007. The writer is a retired economist and management systems analyst. He is a member of the Kansas Society of Certified Public Managers. The paper is based on his analysis of HB 2130 and related Kansas Statutes Annotated, and on his research on local government consolidation and alternatives in Kansas and the United States. The writer also observed and participated in the attempt to consolidate

Topeka and Shawnee County governments in 2005. He resides at 2135 SW Potomac Drive, No. 4, Topeka. 66611-1450. His telephone is 232-0398. A more complete resume is available on request.

A Guide to Local Government Consolidation and Alternatives in Kansas: Is it Needed?

The quotation from the KACIR 2006 Annual Report suggests that Kansas local governments want assistance regarding consolidation in the contexts of their local regional communities. The writer is unable to compose a consolidation model.

It might be possible to write a more modest consolidation guide which assists local officials, community leaders, consolidation study commissions and voters. The guide would assist these people in choosing whether they want to study consolidation and, if chosen, help them prepare, adopt and market a final consolidation plan for submission to voters for approval of plan implementation. It would also identify the major consolidation alternatives.

While some possible contents of the guide are known, answers to the following questions are essential. Would a guide be useful in practice? If "yes," what information should the guide include? What should it exclude?

Please share your answers with the writer at the above address or telephone by May 1, 2007. The writer will read the answers to the questions and decide whether he can write a useful guide to local government consolidation and alternatives.

If the guide is written, it will be written without charge and given to an organization that is willing to distribute it to local government officials, community leaders, consolidation study commissions, voters and other interested persons and groups. The organization will be asked to update the guide to keep it current with future revisions of the Kansas Statutes Annotated, with experience gained from using the guide, and from other future changes in Kansas.

For the pull factor report, use the institutionalized population figures to reduce the total population.

The methodology for the population for the pull factor reports is to take the US Census Institutionalized population from the 2000 Census and adjust each year's population as issued the the Secretary of State's office.

Annual review of state and federal prison statistics will determine if there have been changes in populatin to a degree that warrant updating the data. The only federal prison is in Leawenworth

Data source for the group population, including the institutionalized:

P37. GROUP QUARTERS POPULATION BY GROUP QUARTERS TYPE [9] - Universe:

Population in group quarters

Data Set: Census 2000 Summary File 1 (SF 1) 100-Percent Data

Data on prisons:

Federal From Bureau of Prisons, State of the Bureau annual publication

State From the Dept of Corrections Briefing Report

Prision Data

	2003	2004	2005	2006	Mar-07
Federal					
Leavenworth	2396	2275	2305		2206
Prison	1867	1742	1824		1758
Camp	529	533	481		448
State					
**					
Ed Dorado (Butler)	1445	1360	1361		
Ellsworth (Ellsworth)	817	827	806		
Hutchinson (Reno)	1865	1796	1818		
Lansing (Leavenwo)	2469	2476	2459		
Larned (Leavenwo)	327	331	354		
Norton (Norton)	795	762	779		
Topeka (Shawnee)	0	0	0		
Winfield (Cowley)	758	735	794		

** prison outside city