

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Larry Powell at 3:30 p.m. on March 19, 2009, in Room 783 of the Docking State Office Building.

All members were present.

Committee staff present:

Mike Corrigan, Office of the Revisor of Statutes
Corey Carnahan, Kansas Legislative Research Department
Pat Matzek, Committee Assistant

Conferees appearing before the Committee:

Jessica Bowser, Rural Development and Outreach Coordinator, Department of Agriculture
Mary Jane Stankiewicz, COO and Senior Vice President, Kansas Association of Ethanol Processors (KAEP)
Brad Harrelson, State Director, Governmental Relations, Kansas Farm Bureau

Others attending:

See attached list.

Chairman Powell commenced the meeting with introduction of Brad Harrelson, State Director, Governmental Relations, Kansas Farm Bureau, who appeared as a proponent of **SCR 1610**, providing written testimony only, with a few brief comments.

Hearing on:

SCR 1610 - Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.

Proponents:

Jessica Bowser, Rural Development and Outreach Coordinator, Department of Agriculture
Mary Jane Stankiewicz, COO and Senior Vice President, Kansas Association of Ethanol Processors (KAEP)
Brad Harrelson, State Director, Governmental Relations, Kansas Farm Bureau

Jessica Bowser, Rural Development and Outreach Coordinator, Department of Agriculture, (Attachment 1) spoke in favor of **SCR 1610**, stating it is critical to allow higher blends of ethanol into the nation's gasoline supply as requested in the bill. Higher blends of ethanol will reduce our consumption on foreign oil, assist the financially stressed ethanol plants and allow for the development of next generation technologies. Ms. Bowser further commented that the Department of Agriculture strongly supports this resolution because higher ethanol blends will boost the struggling ethanol industry, provide more green jobs and help the country meet the Renewable Fuels Standard.

Mary Jane Stankiewicz, COO and Senior Vice President, Kansas Association of Ethanol Processors (KAEP), (Attachment 2), appeared as a proponent of **SCR 1610**, documenting there is an estimated 400 people that are currently directly employed by the ethanol plants in Kansas. Further, these plants pay approximately \$3.2 million a year in taxes and generate a local payroll per plant of approximately \$1,700,000. Ms. Stankiewicz noted KAEP is asking support of this bill and encouraging the federal government to move quickly to approve mid-level blends because by increasing the amount of ethanol in our gas we reduce the dependence on foreign oil, increase jobs and improve the environment.

Written testimony:

Brad Harrelson, State Director, Governmental Relations, Kansas Farm Bureau (Attachment 3)

Questions were asked and comments were made by members of the Committee.

The hearing was closed on **SCR 1610**.

CONTINUATION SHEET

Minutes of the House Agriculture and Natural Resources Committee at 3:30 p.m. on March 19, 2009, in Room 783 of the Docking State Office Building.

Action on:

SB 253 - Zoning amendments; protest petitions; mining operations; extraordinary vote not required.

SB 254 - Urban area counties; zoning amendments and conditional use permits; protest petitions, other; extraordinary vote not requires.

Chairman Powell requested Mike Corrigan, Office of the Revisor of Statutes, to explain **SB 253** and **SB 254**.

Mr. Corrigan stated that **SB 253** addresses the issue of modifying zoning regulations in all cities and counties, and would exempt rezoning related to mining operations, subject to the Surface-Mining Land Conservation and Reclamation Act, from any super-majority vote requirement of the city or county governing body.

Mr. Corrigan explained **SB 254** addresses the issue of modifying zoning regulations in Johnson County's unincorporated areas. Further explanation states the bill would exempt rezoning related to mining operations, subject to the surface-Mining Land Conservation and Reclamation Act, from the super-majority vote requirement of the Board of County Commissioners.

Woody Moses, Kansas Aggregate Producers Association, and Brad Smoot, No to Annexation Coalition, also answered questions by members of the Committee.

Representative Fund made a motion to remove the contents of **SB 254** and insert with the language of **SB 253**. Representative Navinsky seconded the motion. By majority vote of the Committee, the motion was carried. Representative Fund made a motion to move the bill favorably out of the Committee. Representative Light seconded the motion. By majority vote of the Committee, the motion was carried.

Representative Svaty voted no.

Action on:

HB 2029 - Annexation procedures; deannexation, board of county commissioners duties, election required, when.

SB 51 - Clothing requirements while hunting deer or elk.

Chairman Powell requested Mike Corrigan, Office of the Revisor of Statutes, to explain **HB 2029**, as amended by House Committee of the Whole.

Mr. Corrigan advised the bill would require a city proposing to annex land unilaterally to submit a copy of the city's plan, dealing with extending services to the area concerned, to the board of county commissioners at least 10 days prior to the required public hearing on the proposed annexation. Further explanation of the bill would modify current law dealing with the review process to determine whether municipal services were provided as stated in the relevant annexation plan by reducing the total time that must elapse before deannexation procedures might begin.

Representative Fund made a motion to remove the contents of **SB 51** and insert with the language of **HB 2029** which passed out of the House minus Representative Mah's amendment, per the balloon (Attachment 4). Representative Moxley seconded the motion. By majority vote of the Committee, the motion was carried. Representative Fund made a motion to moved the bill favorably out of the Committee. Representative Svaty seconded the motion. By majority vote of the Committee, the motion was carried.

CONTINUATION SHEET

Minutes of the House Agriculture and Natural Resources Committee at 3:30 p.m. on March 19, 2009, in Room 783 of the Docking State Office Building.

Action on:

HB 2084 - Cities; annexation; strip annexations restricted.

SB 254 - Urban area counties; zoning amendments and conditional use permits; protest petitions, other; extraordinary vote not requires.

A balloon was distributed to members of the Committee (Attachment 5) and explained by Mike Corrigan, Office of the Revisor of Statutes, stating that this amendment guts the provisions of **SB 254** and replaces them with provisions of **HB 2084** which pertains to strip annexation. The amendment prohibits the use of strip annexation on or after January 1, 2008. Representatives Wetta and DeGraaf sponsored **HB 2084**.

Representative Wetta made a motion to insert the contents of HB 2084 into SB 254. The motion was seconded by Representative Brown. By majority vote of the Committee, the motion was carried. Representative Wetta made a motion to move the bill favorably out of the Committee. Representative Fund seconded the motion. By majority vote of the Committee, the motion was carried.

Action on:

HB 2032 - Cities; annexation; deannexation procedures.

SB 204 - Secretary of agriculture, disposition of food safety and lodging moneys, food safety and lodging fee fund.

A balloon was distributed to members of the Committee (Attachment 6) and explained by Mike Corrigan, Office of the Revisor of Statutes. This bill guts the provisions of **SB 204** and replaces those provisions of Section 1 of **HB 2032** as amended by the House (Representative Mah annexation bill).

Representative Fund made a motion to remove the language out of SB 204 and insert the language of Section 1 of HB 2023. Representative Hineman seconded the motion. By majority vote of the Committee, the motion carried. Representative Fund made a motion to pass the bill out favorably, as amended. Representative Svaty seconded the motion. By majority vote of the Committee, the motion carried.

There are no additional meetings anticipated for this session.

The meeting was adjourned at 4:40 p.m.

Testimony on SCR 1610
to
the House Agriculture and Natural Resource Committee

by Jessica R. Bowser
Rural Development and Outreach Coordinator
Kansas Department of Agriculture

March 19, 2009

Good afternoon, Chairman Powell and members of the committee. I am Jessica Bowser, Rural Development and Outreach Coordinator for the department of agriculture. I am here in support of Senate Concurrent Resolution 1610, which urges the Environmental Protection Agency to authorize use of higher blends of ethanol.

Kansas currently has 11 ethanol plants that produce 494.5 million gallons per year. The ethanol industry has had a big impact on rural Kansas communities. Nationwide in 2008, the ethanol industry created more than 494,000 jobs, added \$65.6 billion to the Gross Domestic Product and \$20.7 billion in tax revenues.

It is critical to allow higher blends of ethanol into the nation's gasoline supply as requested in SCR 1610. Higher blends of ethanol will reduce our consumption on foreign oil, assist the financially stressed ethanol plants and allow for the development of next generation technologies.

The U.S. Department of Energy estimates that 13 million tons of greenhouse gases were avoided in 2007 due to biofuel production and use. Corn ethanol from the United States reduces greenhouse gas emission by 19 percent when the full life cycle of the fuel is measured. Ethanol represents more than 7 percent of the nation's gasoline supply, and it is the only viable alternative transportation fuel to gasoline available today. It is helping us reduce our dependence on foreign oil and it allows us to keep more of our American dollars at home.

In December 2007, the Energy Security and Independence Act, which included the Renewable Fuels Standard, was signed into law. The act mandated 36 billion gallons of ethanol be blended into the domestic fuel supply by 2022. However, the EPA's current ethanol base blend of 10 percent will not allow the country to achieve the Renewable Fuels Standard. The current 10 percent ethanol-blend level that was set by the federal government in 1979 needs to be reevaluated.

We strongly support this resolution because higher ethanol blends will boost the struggling ethanol industry, provide more green jobs and help the country meet the Renewable Fuels Standard.

I will stand for questions at the appropriate time.



Ethanol - *Made in Kansas*

Association Of Ethanol Processors

SCR 1610 – Urging EPA to Consider Higher Blend Ethanol

House Agriculture Committee

March 19, 2009

Good afternoon Chairman Powell and members of the House Agriculture Committee. I am Mary Jane Stankiewicz and I am the COO and Senior Vice President of the Kansas Association of Ethanol Processors (KAEP). KAEP is the organization representing the ethanol plants and associated members in Kansas and our organization appears in support of SCR 1610 today.

SCR 1610 encourages the EPA to consider looking at allowing blending of ethanol into gasoline beyond the current allowable rate of 10%. We believe that in the next few years it is conceivable that the ethanol industry and the nation could be ready for the consumption of ethanol blends in excess of E10, commonly referred to as mid-level blends, and thus we want to make sure the EPA considers not just where we are currently but continues to be open to new research and data that will be produced in the near future that appears to support higher blends.

Currently the U.S. ethanol industry has capacity to produce 12.5 billion gallons of ethanol during this calendar year. Kansas produces 450 million gallons of ethanol each year. Approximately 70% of the gasoline sold in the U.S. today contains ethanol. Most of this gasoline is consumed by vehicles using 10% ethanol and 90% gasoline (i.e. E10) – this is currently the standard blend warranted in legacy vehicles of the U.S. automotive fleet. However at this point we are approaching the maximum amount of ethanol that can be consumed in this manner, i.e. we have hit the regulatory cap or the blending wall. We think it is time to take the next step in increasing this level of use of ethanol. On March 6, 2009, Growth Energy, an ethanol industry group in Washington, DC, along with 51 ethanol plants and several cellulosic ethanol companies petitioned EPA to allow E15 in gasoline. This waiver was also supported by the Ford Motor Corporation, which is significant because as one of the automobile manufacturers, Ford stated that use of E15 would not harm catalytic converters in older cars and would not jeopardize the car warranties. We believe the science and data is there to support the

E15 waiver and think that this resolution would send a supportive message to EPA that not only should they support the waiver but they need to consider even higher blend of ethanol in the future.

As we consider the requirements and schedule of the federal Renewable Fuels Standard, culminating with the use of 36 billion gallons of biofuel in 2022, the standard ethanol blend must grow from its current level to allow for consumption of this biofuel production. This quandary is even more apparent when it is recognized that E85% use in flex fuel vehicles remains less than 1% of the fuel ethanol consumption. The domestic economic stimulus and energy security benefits of EPA eliminating this regulatory cap are also quite significant. Each additional billion gallons of ethanol production creates nearly 20,000 jobs in the economy.

Ethanol plays an important part in the Kansas economy. There is an estimated 400 people that are currently directly employed by the ethanol plants in Kansas. These plants pay approximately \$3.2 million a year in taxes and generate a local payroll per plant of approximately \$1,700,000. Therefore we are asking for your support of SCR 1610 encouraging the federal government to move quickly to approve mid-level blends because by increasing the amount of ethanol in our gas we reduce the dependence on foreign oil, increase jobs and improve the environment.

Thank you for your time and attention. I would be happy to answer any questions you may have at the appropriate time.

PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON AGRICULTURE AND NATURAL
RESOURCES

RE: SCR No. 1610 – a resolution urging EPA to authorize the use
of higher blends of ethanol in non-flex fuel vehicles.

March 19, 2009
Topeka, Kansas

Testimony provided by:
Brad Harrelson
State Policy Director
KFB Governmental Relations

Chairman Powell, and members of the House Committee on Agriculture and Natural Resources, thank you for the opportunity to appear today in support of SCR 1610. I am Brad Harrelson, State Policy Director—Governmental Relations for Kansas Farm Bureau. KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

On behalf of Kansas Farm Bureau (KFB) I would like to extend our appreciation to the Kansas Legislature for its past support for ethanol. You undoubtedly share our firm commitment to this valuable, renewable energy resource. We at KFB stand ready to assist you in your mission to promote alternative fuels.

Ethanol is unquestionably, one of the most notable success stories in agriculture today. Ethanol demand continues to surge, and the industry is setting unprecedented production records. Consumption of this high-octane, low-emission fuel not only reduces our dependence on foreign oil; it enhances market demand for corn and other grains, which is good for Kansas producers, and the rural Kansas economy.

Ag & Natural Resources Committee
Date 3-19-09
Attachment 3

While these statistics are most encouraging, we believe there is more that can be done to promote ethanol consumption. Currently, the Environmental Protection Agency has not approved the use of ethanol blends in excess of 10% in non-flex fuel vehicles. Favorable research supports use of higher ethanol blends, such as E20, in non-flex fuel vehicles which would increase ethanol consumption and provide for cleaner auto emissions.

In summary, thank you for your consideration, your support of ethanol and Kansas agricultural producers. Kansas Farm Bureau respectfully urges your recommendation to pass favorably SCR 1610. Thank you.

SENATE BILL No. 51

By Committee on Natural Resources

1-20

Agriculture & Natural Resources
Date 3-19-09
Attachment 4

9 [AN ACT concerning wildlife and parks; relating to clothing requirements
10 while hunting deer or elk; amending K.S.A. 32-1015 and repealing the
11 existing section.]

[AN ACT concerning cities; relating to annexation; amending K.S.A. 12-
519, 12-520b, 12-521, 12-531 and 12-532 and K.S.A. 2008 Supp. 25-
432 and repealing the existing sections.]

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

14 [Section 1. K.S.A. 32-1015 is hereby amended to read as follows: 32-
15 1015. (a) It is unlawful for any person to:

16 (1) Destroy any muskrat house, beaver dam, mink run or any hole,
17 den or runway of any furbearing animal, or cut down or destroy any tree
18 that is the home, habitat or refuge of any furbearing animal;

19 (2) hunt deer ~~or elk~~ in this state in an area where a firearms season
20 for the taking of deer ~~or elk~~ is occurring, *or hunt elk in this state in an*
21 *area where a firearms season for the taking of elk is occurring*, unless
22 such person is wearing clothing of a highly visible nature in a color, an
23 amount worn and a location on such person's body prescribed by rules
24 and regulations adopted by the secretary pursuant to K.S.A. 32-805, and
25 amendments thereto;

26 (3) do any act or engage in any activity within any state park, state
27 lake, recreational ground, wildlife area or sanctuary, natural area or other
28 area under the control of the secretary which is in violation of or contrary
29 to law or rules and regulations of the secretary;

30 (4) use any manner or means of taking fish which may escape from
31 a private water fishing impoundment and kill or endanger fish in another
32 such impoundment or in public waters;

33 (5) remove fish from a private water fishing impoundment without
34 the consent of the owner or tenant having possession and control of such
35 impoundment; or

36 (6) place, erect or cause to be placed or erected any seine, screen,
37 net, weir, fishdam or other obstruction in or across any of the waters,
38 rivers, creeks, ponds, streams, sloughs or other watercourses within the
39 jurisdiction of this state in such a manner as will obstruct the free passage
40 of fish up and down and through such watercourses.

41 (b) Subsection (a)(1) shall not be construed to prohibit a legal owner
42 or occupant of land from cutting trees on such land.

43 Sec. 2. K.S.A. 32-1015 is hereby repealed.]

1 [Sec. 3. This act shall take effect and be in force from and after its
2 publication in the statute book.]

Insert Sections 1 through 8 of Sub. for House Bill 2029
as amended by HCOW as marked. Copy attached.

Designate as HOUSE Substitute for SENATE
BILL No. 51

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Substitute for HOUSE BILL No. 2029

By Committee on Local Government

2-17

10 AN ACT concerning cities; relating to annexation; amending K.S.A. 12-
11 519, 12-520b, 12-521, 12-531 and 12-532 and K.S.A. 2008 Supp. 25-
12 432 and repealing the existing sections.

13

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

15 Section 1. K.S.A. 12-520b is hereby amended to read as follows: 12-
16 520b. (a) The governing body of any city proposing to annex land under
17 the provisions of K.S.A. 12-520, and amendments thereto, shall make
18 plans for the extension of services to the area proposed to be annexed
19 and shall, prior to the adoption of the resolution provided for in K.S.A.
20 12-520a, and amendments thereto, prepare a report setting forth such
21 plans. The report shall include:

22 (1) A sketch clearly delineating the land proposed to be annexed and
23 the area of the city adjacent thereto to show the following information:

24 (A) The present and proposed boundaries of the city affected by such
25 proposed annexation;

26 (B) the present streets, water mains, sewers and other city utility
27 lines, and the proposed extension thereof;

28 (C) the general land use pattern in the areas to be annexed.

29 (2) A statement setting forth a plan of sufficient detail to provide a
30 reasonable person with a full and complete understanding of the inten-
31 tions of the city for extending to the area to be annexed each major
32 municipal service provided to persons and property located within the
33 city and the area proposed to be annexed at the time of annexation and
34 the estimated cost of providing such services. The plan shall state the
35 estimated cost impact of providing such services to the residents of the
36 city and the residents of the area proposed to be annexed. The plan shall
37 state the method by which the city plans to finance the extension of such
38 services to such area. Such plan shall include a timetable of the plans for
39 extending each major municipal service to the area annexed. The plan
40 shall state the means by which the services currently provided by a town-
41 ship or special district in the area to be annexed shall be maintained by
42 the city at a level which is equal to or better than the level of services
43 provided prior to annexation. The plan shall state those services which

1 shall be provided immediately upon annexation and those services which
2 may be provided upon petition of the landowners to create a benefit
3 district.

4 *(b) A copy of the plan for extension of services shall be sent by certified*
5 *mail not less than 10 days prior to the public hearing as provided in K.S.A.*
6 *12-520a, and amendments thereto, to the board of county commissioners.*

7 ~~(b)~~ (c) The preparation of a plan for the extension of services required
8 by subsection (a) shall not be required for or as a prerequisite to the
9 annexation of land of which all of the owners petition for or consent to
10 such annexation in writing.

11 Sec. 2. K.S.A. 12-531 is hereby amended to read as follows: 12-531.

12 (a) ~~Five~~ *Three* years following the annexation of any land pursuant to
13 K.S.A. 12-520 or 12-521, and amendments thereto, or, where there has
14 been litigation relating to the annexation, ~~five~~ *three* years following the
15 conclusion of such litigation, the board of county commissioners shall call
16 a hearing to consider whether the city has provided the municipal services
17 as provided in the timetable set forth in the plan in accordance with K.S.A.
18 12-520b or 12-521, and amendments thereto. The board of county com-
19 missioners shall schedule the matter for public hearing and shall give
20 notice of the date, hour and place of the hearing to: (1) The city; and (2)
21 any landowner in the area subject to the service extension plan.

22 (b) At the hearing, the board shall hear testimony as to the city's
23 extension of municipal services, or lack thereof, from the city and the
24 landowner. After the hearing, the board shall make a finding as to whether
25 or not the city has provided services in accordance with its service exten-
26 sion plan. If the board finds that the city has not provided services as
27 provided in its service extension plan, the board shall notify the city and
28 the landowner that such property may be deannexed, as provided in
29 K.S.A. 12-532, *and amendments thereto*, if the services are not provided
30 within ~~2½ years~~ *1½ years* of the date of the board's findings.

31 (c) *If the board of county commissioners refuses to hold the hearing*
32 *as required, any owner of land living in such area annexed, may bring an*
33 *action under provisions of K.S.A. 60-1201 et seq., and amendments*
34 *thereto, to compel the board to hold the hearing. The court, upon finding*
35 *the hearing is required, shall award attorney fees and costs to the land-*
36 *owner.*

37 Sec. 3. K.S.A. 12-532 is hereby amended to read as follows: 12-532.

38 (a) If, within ~~2½ years~~ *1½ years* following the conclusion of the hearing
39 required by K.S.A. 12-531, *and amendments thereto*, or, where there has
40 been litigation relating to the hearing, ~~2½ years~~ *1½ years* following the
41 conclusion of such litigation, the city has not provided the municipal serv-
42 ices as provided in the timetable set forth in the plan prepared in ac-
43 cordance with K.S.A. 12-520b or 12-521, and amendments thereto, the

1 owner of such land may petition the board of county commissioners to
2 exclude such land from the boundaries of the city. Within 10 days after
3 receipt of the petition, the board shall schedule the matter for public
4 hearing and shall give notice of the date, hour and place of the hearing
5 to: (1) The owner; (2) the city; (3) the township into which the property,
6 if deannexed, would be placed; and (4) the governing body of any fire
7 district, sewer district, water district or other special district governments
8 which have jurisdiction over territory adjacent to the area sought to be
9 deannexed. The notice shall be sent by certified mail no less than 21 days
10 before the date of the hearing.

11 (b) At the hearing, the board shall hear testimony as to the city's
12 extension of municipal services, or lack thereof, from both the owner and
13 representatives of the city. Except as provided by subsection (e), if the
14 board finds after the hearing that the city has failed to provide the mu-
15 nicipal services in accordance with the plan and consistent with the time-
16 table therein, the board may enter an order excluding the land from the
17 boundaries of the city. Any such order shall take effect in the same man-
18 ner as provided in K.S.A. 12-523, and amendments thereto, for the ef-
19 fective date of annexation ordinances. Such land shall not be annexed
20 again for ~~one year~~ *three years* from the effective date of the order without
21 the written consent of the owner of the land.

22 (c) The county clerk shall certify a copy of the order to the register
23 of deeds of the county. The register of deeds shall record the order in
24 the deed records of the county, and, at the expense of the ~~owner~~ *city*,
25 the register of deeds also shall record the order of exclusion on the margin
26 of the recorded plat of such land, giving reference thereon to the page
27 and book of records where the order is recorded in the register's office.

28 (d) Except as provided by this subsection, after the effective date of
29 the order to exclude the land from the city, such land shall not be liable
30 for any general taxes imposed by the city. Such land shall remain liable,
31 however, for any taxes or special assessments levied by the city as are
32 necessary to pay its proportionate share of the interest on and principal
33 of such bonds or other indebtedness incurred by the city for improve-
34 ments to the land which were approved by the city before the date on
35 which the owner or owners filed a petition for the exclusion of the land
36 from the city.

37 (e) The board shall not order exclusion of any land if:

38 (1) The service extension plan conditions the extension of certain im-
39 provements or services on the filing of a legally sufficient petition by the
40 owners of the land for the creation of an improvement district and to levy
41 special assessments therein to pay a portion of the costs of such improve-
42 ments, and a sufficient petition has not been filed;

43 (2) since the annexation, the governing body of the city initiated the

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1 creation of an improvement or benefit district affecting such land to levy
2 special assessments thereon to pay a portion of the costs of certain mun-
3 icipal improvements, and the formation of the district was blocked by
4 the filing of a sufficient protest petition by some or all of the owners of
5 any land in the proposed district;

6 (3) the exclusion would result in the land being completely sur-
7 rounded by other tracts of land located within the city's boundaries; or

8 (4) the board finds the exclusion of the land would have an adverse
9 impact on the health, safety and welfare of the residents of the city or
10 such land.

11 (f) Any owner or the city aggrieved by the decision of the board may
12 appeal the decision to the district court in the manner provided in K.S.A.
13 19-223, and amendments thereto. Any city so appealing shall not be re-
14 quired to execute the bond prescribed therein.

15 (g) *If the board of county commissioners refuses to hold the hearing*
16 *as required, any owner of land may bring an action under provisions of*
17 *K.S.A. 60-1201 et seq., and amendments thereto, to compel the board to*
18 *hold the hearing. The court, upon finding the hearing is required, shall*
19 *award attorney fees and costs to the landowner.*

20 Sec. 4. K.S.A. 12-519 is hereby amended to read as follows: 12-519.
21 As used in this act: (a) "Tract" means a single unit of real property under
22 one ownership, outside the corporate limits of a city, which may be platted
23 or unplatted, title to which is publicly or privately held by an owner as
24 defined by subsection (c).

25 (b) "Land" means a part of a tract or one or more tracts.

26 (c) "Owner" means the one who has record title to a tract. In the
27 event two or more persons have record title to a tract, "owner" shall be
28 defined as follows:

29 (1) If joint tenants, "owner" means a majority of the number of joint
30 tenants; (2) if tenants in common, "owner" means both a majority of the
31 number of tenants in common and the holders of a majority of the un-
32 divided interests in the tract; (3) if the tract is held by a life tenant and a
33 remainderman, "owner" means the life tenant; (4) if the tract is held by
34 a tenant under a recorded lease providing for a lease term of 10 years or
35 longer and a remainderman, "owner" means both such tenant and re-
36 mainderman; (5) if one holds title to the surface and another holds title
37 to the minerals, "owner" means the surface title holder.

38 (d) "Adjoins" means to lie upon or touch (1) the city boundary line;
39 or (2) a highway, railway or watercourse which lies upon the city boundary
40 line and separates such city and the land sought to be annexed by only
41 the width of such highway, railway or watercourse.

42 (e) "Platted" means a tract or tracts mapped or drawn to scale, show-
43 ing a division or divisions thereof, which map or drawing is filed in the

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1 office of the register of deeds by the owner of such tract.
2 (f) "Land devoted to agricultural use" means land which is devoted
3 to the production of plants, animals or horticultural products, including
4 but not limited to: Forages; grains and feed crops; dairy animals and dairy
5 products; poultry and poultry products; beef cattle, sheep, swine and
6 horses; bees and apiary products; trees and forest products; fruits, nuts
7 and berries; vegetables; or nursery, floral, ornamental and greenhouse
8 products. Land devoted to agricultural use shall not include those lands
9 which are used for recreational purposes, suburban residential acreages,
10 rural home sites or farm home sites and yard plots whose primary function
11 is for residential or recreational purposes even though such properties
12 may produce or maintain some of those plants or animals listed in the
13 foregoing definition.

14 (g) "*Qualified elector*" means any person registered to vote who re-
15 sides within the area proposed to be annexed under the provisions of
16 K.S.A. 12-521, and amendments thereto.

17 (h) "*Area proposed to be annexed*" means the area approved for an-
18 nexation by the board of county commissioners under provisions of K.S.A.
19 12-521, and amendments thereto.

20 (g)(i) "Watercourse" means a natural or manmade course where wa-
21 ter may flow on a regular or intermittent basis; a watercourse shall not
22 include a natural or manmade lake, pond or other impoundment of five
23 or more acres of surface area.

24 Sec. 5. K.S.A. 12-521 is hereby amended to read as follows: 12-521.

25 (a) Whenever the governing body of any city deems it advisable to annex
26 land which such city is not permitted to annex under K.S.A. 12-520, and
27 amendments thereto, or if the governing body of any city is permitted to
28 annex land under K.S.A. 12-520, and amendments thereto, but deems it
29 advisable not to annex thereunder, the governing body may annex such
30 land as provided by this section. The governing body, in the name of the
31 city, may present a petition to the board of county commissioners of the
32 county in which the land sought to be annexed is located. The petition
33 shall set forth a legal description of the land sought to be annexed and
34 request a public hearing on the advisability of such annexation. The gov-
35 erning body of such city shall make plans for the extension of services to
36 the tract of land proposed to be annexed and shall file a copy thereof with
37 the board of county commissioners at the time of presentation of the
38 petition. Such report shall include:

39 (1) A sketch clearly delineating the land proposed to be annexed and
40 the area of the city adjacent thereto to show the following information:

41 (A) The present and proposed boundaries of the city affected by such
42 proposed annexation;

43 (B) the present streets, water mains, sewers and other city utility

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1 lines, and the proposed extension thereto;

2 (C) the general land use pattern in the areas to be annexed.

3 (2) A statement setting forth a plan of sufficient detail to provide a
4 reasonable person with a full and complete understanding of the inten-
5 tions of the city for extending to the area to be annexed each major
6 municipal service provided to persons and property located within the
7 city and area proposed to be annexed at the time of annexation and the
8 estimated cost of providing such services. The plan shall state the esti-
9 mated cost impact of providing such services to the residents of the city
10 and the residents of the area proposed to be annexed. The plan shall state
11 the method by which the city plans to finance the extension of such serv-
12 ices to such area. The plan shall include a timetable for the extension of
13 major municipal services to the area proposed to be annexed. The plan
14 shall state the means by which the services currently provided by a town-
15 ship or special district in the area to be annexed shall be maintained by
16 the city at a level which is equal to or better than the level of services
17 provided prior to annexation. The plan shall state those services which
18 shall be provided immediately upon annexation and those services which
19 may be provided upon petition of the landowners to create a benefit
20 district.

21 *(b) No portion of any unplatted tract of land devoted to agricultural*
22 *use of 21 acres or more shall be annexed by any city under the authority*
23 *of this section, and amendments thereto, without the written consent of*
24 *the owner thereof.*

25 ~~(b)~~ (c) The date fixed for the public hearing shall be not less than 60
26 nor more than 70 days following the date of the presentation of the pe-
27 tition requesting such hearing. Notice of the time and place of the hear-
28 ing, together with a legal description of the land sought to be annexed
29 and the names of the owners thereof, shall be published in a newspaper
30 of general circulation in the city not less than one week and not more
31 than two weeks preceding the date fixed for such hearing.

32 A copy of the notice providing for the public hearing shall be mailed
33 by certified mail to each owner of the land proposed to be annexed not
34 more than 10 days following the date of the presentation of the petition
35 requesting such hearing.

36 A sketch clearly delineating the area in such detail as may be necessary
37 to advise the reader of the particular land proposed to be annexed shall
38 be published with such notice and a copy thereof mailed to the owner of
39 the property with such notice.

40 The board for good cause shown may continue the hearing beyond the
41 time specified in the notice without further publication.

42 ~~(c)~~ (d) On the day set for hearing, the board of county commissioners
43 shall hear testimony as to the advisability of such annexation, and a rep-

1 resentative of the city shall present the city's proposal for annexation,
2 including the plan of the city for the extension of services to the area
3 proposed to be annexed.

4 The action of the board of county commissioners shall be quasi-judicial
5 in nature. The board of county commissioners shall consider the impact
6 of approving or disapproving the annexation on the entire community
7 involved, including the city and the land proposed to be annexed, in order
8 to insure the orderly growth and development of the community. The
9 board shall make specific written findings of fact and conclusions deter-
10 mining whether such annexation or the annexation of a lesser amount of
11 such area causes manifest injury to the owners of any land proposed to
12 be annexed, or to the owners of land in areas near or adjacent to the land
13 proposed to be annexed or to the city if the annexation is disapproved.
14 The findings and conclusions shall be based upon the preponderance of
15 evidence presented to the board. In determining whether manifest injury
16 would result from the annexation, the board's considerations shall include,
17 but not be limited to, the extent to which the following criteria may affect
18 the city, the area to be annexed, the residents of the city and the area to
19 be annexed, other governmental units providing services to the area to
20 be annexed, the utilities providing services to the area to be annexed, and
21 any other public or private person, firm or corporation which may be
22 affected thereby:

- 23 (1) Extent to which any of the area is land devoted to agricultural
24 use;
- 25 (2) area of platted land relative to unplatted land;
- 26 (3) topography, natural boundaries, storm and sanitary sewers, drain-
27 age basins, transportation links or any other physical characteristics which
28 may be an indication of the existence or absence of common interest of
29 the city and the area proposed to be annexed;
- 30 (4) extent and age of residential development in the area to be an-
31 nexed and adjacent land within the city's boundaries;
- 32 (5) present population in the area to be annexed and the projected
33 population growth during the next five years in the area proposed to be
34 annexed;
- 35 (6) the extent of business, commercial and industrial development in
36 the area;
- 37 (7) the present cost, methods and adequacy of governmental services
38 and regulatory controls in the area;
- 39 (8) the proposed cost, extent and the necessity of governmental serv-
40 ices to be provided by the city proposing annexation and the plan and
41 schedule to extend such services;
- 42 (9) tax impact upon property in the city and the area;
- 43 (10) extent to which the residents of the area are directly or indirectly

1 dependent upon the city for governmental services and for social, eco-
2 nomic, employment, cultural and recreational opportunities and
3 resources;

4 (11) effect of the proposed annexation on the city and other adjacent
5 areas, including, but not limited to, other cities, sewer and water districts,
6 improvement districts, townships or industrial districts and, subject to the
7 provisions of K.S.A. 12-521a, fire districts;

8 (12) existing petitions for incorporation of the area as a new city or
9 for the creation of a special district;

10 (13) likelihood of significant growth in the area and in adjacent areas
11 during the next five years; and

12 (14) effect of annexation upon the utilities providing services to the
13 area and the ability of those utilities to provide those services shown in
14 the detailed plan.

15 ~~(d)~~ (e) The board of county commissioners shall render a judgment
16 within seven days after the hearing has been adjourned sine die. If a
17 majority of the board of county commissioners concludes that the annex-
18 ation or any part thereof should be allowed, the board shall so find and
19 grant the annexation by order; and thereupon the city may annex the land
20 by ordinance. Orders of the board of county commissioners denying the
21 petition or a part thereof for annexation shall require a majority vote of
22 the members of the board. When an order denying a petition or part
23 thereof is issued, it shall be by resolution, which shall be sent by certified
24 mail to the city proposing the annexation. All orders of the board of county
25 commissioners granting or denying petitions for annexation shall be
26 spread at length upon the journal of proceedings of the board. The failure
27 of such board to spread an order granting annexation upon the journal
28 shall not invalidate such order.

29 (f) ~~[(1)]~~ Within 10 days following the rendering of the judgment of
30 the board of county commissioners as provided in subsection (e), the city
31 clerk shall certify to the county election officer a legal description and a
32 map of the area outside the corporate limits of the city proposed to be
33 annexed and the street addresses of all real estate located therein. If there
34 are qualified voters residing in the area proposed to be annexed, then the
35 county election officer shall conduct a mail ballot election under the pro-
36 visions of K.S.A. 25-431, et seq., and amendments thereto, in the area
37 proposed to be annexed within 60 days of such certification. If a majority
38 of the qualified electors residing in the area proposed to be annexed and
39 voting thereon approve the annexation, the city may annex the land by
40 passage of an ordinance. If a majority of the qualified electors residing in
41 the area proposed to be annexed and voting thereon reject the annexation,
42 the lands shall not be annexed and the city may not propose the annexation
43 of any such lands in the proposed area for at least four years from the

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11-7

1 *date of the election.*

2 **[(2) This provision shall apply to annexations in Johnson,**
3 **Sedgwick and Shawnee counties in Kansas.]**

4 (e) (g) Any owner of land annexed pursuant to this section or the city
5 aggrieved by the decision of the board of county commissioners may
6 appeal the decision of the board to the district court of the same county
7 in the manner and method set forth in K.S.A. 19-223, and amendments
8 thereto. Nothing in this subsection shall be construed as granting the
9 owner of land in areas near or adjacent to land annexed pursuant to this
10 section the right to appeal the decision of the board of county commis-
11 sioners. Any city so appealing shall not be required to execute the bond
12 prescribed therein.

13 Sec. 6. K.S.A. 2008 Supp. 25-432 is hereby amended to read as fol-
14 lows: 25-432. An election shall not be conducted under this act unless:

15 (a) Conducted on a date, mutually agreed upon by the governing
16 body of the political or taxing subdivision and the county election officer,
17 not later than 120 days following the date the request is submitted by the
18 political or taxing subdivision; and

19 (b) the secretary of state approves a written plan for conduct of the
20 election, which shall include a written timetable for the conduct of the
21 election, submitted by the county election officer; and

22 (c) the election is nonpartisan; and

23 (d) the election is not one at which any candidate is elected, retained
24 or recalled; and

25 (e) the election is not held on the same date as another election in
26 which the qualified electors of that subdivision of government are eligible
27 to cast ballots; and

28 (f) the election is a question submitted election at which all of the
29 qualified electors of one of the following subdivisions of government are
30 the only electors eligible to vote:

31 (1) Counties;

32 (2) cities;

33 (3) school districts, except in an election held pursuant to K.S.A. 72-
34 7302 et seq., and amendments thereto;

35 (4) townships;

36 (5) benefit districts organized under K.S.A. 31-301, and amendments
37 thereto;

38 (6) cemetery districts organized under K.S.A. 15-1013 or 17-1330,
39 and amendments thereto;

40 (7) combined sewer districts organized under K.S.A. 19-27,169, and
41 amendments thereto;

42 (8) community college districts organized under K.S.A. 71-1101 et
43 seq., and amendments thereto;

1 (9) fire districts organized under K.S.A. 19-3601 or 80-1512, and
2 amendments thereto;

3 (10) hospital districts;

4 (11) improvement districts organized under K.S.A. 19-2753, and
5 amendments thereto;

6 (12) Johnson county park and recreation district organized under
7 K.S.A. 19-2859, and amendments thereto;

8 (13) sewage disposal districts organized under K.S.A. 19-27,140, and
9 amendments thereto;

10 (14) water districts organized under K.S.A. 19-3501 et seq., and
11 amendments thereto; ~~or~~

12 (15) transportation development districts created pursuant to K.S.A.
13 2008 Supp. 12-17,140 et seq., and amendments thereto; *or*

14 (16) *any tract of land annexed pursuant to section 5, and amendments*
15 *thereto.*

16 Sec. 7. K.S.A. 12-519, 12-520b, 12-521, 12-531 and 12-532 and
17 K.S.A. 2008 Supp. 25-432 are hereby repealed.

18 Sec. 8. This act shall take effect and be in force from and after its
19 publication in the statute book.

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SENATE BILL No. 254

By Committee on Ways and Means

2-9

9 AN ACT [concerning zoning; relating to counties declared urban areas;
10 amending K.S.A. 19-2960 and repealing the existing section.]

[relating to annexation; amending K.S.A. 2008 Supp. 12-520
and repealing the existing section.

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

13 [Section 1. K.S.A. 19-2960 is hereby amended to read as follows: 19-
14 2960. (a) The board of county commissioners, by resolution, may provide
15 for the adoption or amendment of zoning regulations for the unincor-
16 porated portion of the county in the manner, and for the purposes, pro-
17 vided by this act. Such regulations may (1) restrict and regulate the height,
18 number of stories and size of buildings; (2) the percentage of lots that
19 may be occupied; (3) the size of yards, courts and other open spaces; (4)
20 the density of population, including minimum width, depth and area of
21 lots; (5) the location and use of buildings, structures and land for industry,
22 business, trade or residence; and (6) the use of land located in areas
23 designated as floodplains. Such resolution shall define the boundaries of
24 zoning classifications by description contained therein or by setting out
25 such boundaries upon a map incorporated and published as a part of such
26 resolution, or by providing for the incorporation by reference in such
27 resolution of an official map upon which such boundaries shall be fixed.
28 Such map shall be marked "official copy incorporated by resolution of
29 the board of county commissioners the _____ day of _____,
30 19____," and filed in a public office designated by the board of county
31 commissioners and shall be a public record.

32 (b) *Except as provided in subsection (c)*, before the board of county
33 commissioners creates any zone, district or zoning classification or regu-
34 lates or restricts the use of buildings or land in the unincorporated portion
35 of the county, the board shall require the planning commission to rec-
36 ommend to the board of county commissioners the nature and number
37 of zoning classifications which the planning commission deems necessary,
38 the boundaries of the same and appropriate regulations or restrictions to
39 be enforced therein. All such regulations shall be uniform for each class
40 or kind of buildings or land uses throughout each zoning classification,
41 but the regulations in one zoning classification may differ from those in
42 other zoning classifications, and the regulations may prescribe conditions
43 under which conditional use permits may be issued providing exceptions]

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1 [to such uniform regulations. The issuance of any conditional use permit
2 shall be considered a change or revision to the zoning map and shall be
3 subject to the same notice, hearing and voting requirements prescribed
4 herein for rezonings. The regulations shall be made in accordance with a
5 land use plan and, in addition to the purposes provided in K.S.A. 19-2956,
6 shall be designed to (1) lessen congestion in each district, (2) provide
7 adequate light and air; (3) prevent the overcrowding of land, (4) avoid
8 undue concentrations of population; and (5) to facilitate the adequate
9 provisions of transportation, water, sewerage, schools, parks and other
10 public requirements. Such regulations shall be made with reasonable con-
11 sideration, among other things, to existing conditions, to the character of
12 the district, its peculiar suitability for particular uses and with a view to
13 conserving the values of buildings and encouraging the most appropriate
14 use of land within the county.

15 The notice, hearing and voting procedures for adoption of the zoning
16 regulations shall be the same as that required for adoption of the com-
17 prehensive plan as provided by K.S.A. 19-2958.

18 After adoption of the zoning resolution, the zoning regulations, the
19 zoning classifications or the boundaries contained therein may from time
20 to time be supplemented, changed or generally revised by amendment.
21 The boundaries on the zoning map may from time to time be changed
22 or revised by a rezoning or conditional use permit. A proposal for an
23 amendment, rezoning or conditional use permit may be initiated by the
24 board of county commissioners, the planning commission, any zoning
25 board or upon application of the owner of property affected.

26 The board of county commissioners may establish reasonable fees to
27 be paid in advance by the owner of any property at the time of making
28 application for any amendment, rezoning or conditional use permit.

29 All such proposed amendments, rezonings or conditional use permits
30 first shall be submitted to either the planning commission for recom-
31 mendation regarding amendments or the appropriate zoning board for
32 recommendation regarding rezonings or conditional use permits. All no-
33 tice, hearing and voting procedures for consideration of proposed amend-
34 ments, rezonings and conditional use permits shall be the same as that
35 required for amendments, extensions or additions to the comprehensive
36 plan as provided by K.S.A. 19-2958. Rezonings and conditional use per-
37 mits shall be designated by legal description and general street location
38 and, in addition to publication notice, written notice of such proposed
39 rezoning or conditional use permit shall be mailed to all owners of record
40 of lands located within 1,000 feet of the property affected by such rezon-
41 ing or conditional use permit and an opportunity granted to interested
42 parties to be heard, all as provided in the zoning regulations. Failure to
43 receive such notice shall not invalidate any subsequent action taken.]

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1 [On hearings concerning rezonings and conditional use permits, such
2 notice is sufficient to permit the zoning board to make a recommendation
3 which affects only a portion of the land described in the notice or which
4 gives all or any part of the land described a zoning classification of lesser
5 change than that set forth in the notice. Recommending a zoning classi-
6 fication of lesser change than that set forth in the notice shall not be valid
7 without republication, remailing and a new public hearing unless the plan-
8 ning commission shall have previously established, with the approval of
9 the board of county commissioners, a table or publication available to the
10 public which designates what zoning classifications are lesser changes
11 authorized within the adopted zoning resolution.

12 If such amendment, rezoning or conditional use permit affects the
13 boundaries of any zoning classification, the resolution of the board of
14 county commissioners shall describe the boundaries, as amended, or if
15 the county has made provision for the fixing of the same upon an official
16 map which has been incorporated by reference, the amending resolution
17 shall define the change or the boundary, as amended, shall order the
18 official map to be changed to reflect such amendment and shall reincor-
19 porate such map as amended.

20 Regardless whether a zoning board recommends to approve or disap-
21 prove a proposed rezoning or conditional use permit or "fails to recom-
22 mend" if a protest against such rezoning or conditional use permit is filed
23 in the office of the county clerk within 14 days after the date of the
24 conclusion of the public hearing held pursuant to such publication notice,
25 duly signed and acknowledged by the owners of 20% or more of any real
26 property subject to the rezoning or conditional use permit or by the own-
27 ers of 20% of the total area, except public streets and ways, located within
28 1,000 feet of the boundaries of the property subject to the rezoning or
29 conditional use permit, the resolution adopting such rezoning or condi-
30 tional use permit shall not be passed except by a favorable vote of at least
31 $\frac{2}{3}$ of all of the members of the board of county commissioners.

32 (c) *A resolution adopting rezoning or a conditional use permit for*
33 *mining operations subject to K.S.A. 49-601 et seq., and amendments*
34 *thereto, regardless of a protest petition or a failure to recommend by the*
35 *planning commission, shall only require approval by a majority of all*
36 *members of the board of county commissioners.*

37 (d) Regulations adopted under authority of this act shall not apply to
38 the existing use of any buildings or land and shall not prevent the resto-
39 ration of a building damaged not more than 50% of its assessed valuation
40 by fire, explosion, act of God, or the public enemy, or prevent the con-
41 tinuance of the use of such building or part thereof as such use existed
42 at the time of such damage, but shall apply to any alteration, expansion
43 or enlargement of a building or alteration of any land after the effective]

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5-5

1 [date of any such zoning resolution. No determination nor rule nor reg-
2 ulation shall be held to apply to the use of land for agricultural purposes,
3 nor for the erection or maintenance of buildings thereon for such pur-
4 poses so long as such land and buildings erected thereon are used for
5 agricultural purposes and not otherwise.

6 No zoning regulations shall apply to the use of land for agricultural
7 purposes nor for the erection or maintenance of agricultural buildings as
8 long as such agricultural buildings are used for agricultural purposes and
9 no other. Dwellings, garages and other similar accessory buildings shall
10 not be considered as agricultural buildings. All buildings, including agri-
11 cultural buildings, may be regulated as to setback requirements from
12 public roads so as to protect the future use and improvement of such
13 roads.

14 (d) (e) Whenever the board of county commissioners has adopted, as
15 a part of the comprehensive plan, a plan for its present or future street
16 or highway system and such plan outlines the intentions of the county for
17 improvements to existing streets or highways, for constructing new streets
18 or highways or for establishing right-of-way needs for streets or highways,
19 the board of county commissioners is hereby authorized, by resolution,
20 to establish, further regulate and limit, and to change and amend, addi-
21 tional building or setback lines on such present or future streets or high-
22 ways. The board of county commissioners is also authorized to prohibit
23 any new building being located within such building or setback line out-
24 side the corporate limits of any city. The resolution may be adopted, and
25 amended or changed, as a part of the zoning regulations.

26 Sec. 2. K.S.A. 19-2960 is hereby repealed.

27 Sec. 3. This act shall take effect and be in force from and after its
28 publication in the statute book.]

On page 4 after line 28 insert sections 1
through 3 of House Bill 2084.

HOUSE BILL No. 2084

By Representatives Wetta and DeGraaf

1-26

9 AN ACT concerning cities; relating to annexation of territory; amending
10 K.S.A. 2008 Supp. 12-520 and repealing the existing section.

11

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

13 Section 1. K.S.A. 2008 Supp. 12-520 is hereby amended to read as
14 follows: 12-520. (a) Except as hereinafter provided, the governing body
15 of any city, by ordinance, may annex land to such city if any one or more
16 of the following conditions exist:

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

18 (2) The land is owned by or held in trust for the city or any agency
19 thereof.

20 (3) The land adjoins the city and is owned by or held in trust for any
21 governmental unit other than another city except that no city may annex
22 land owned by a county without the express permission of the board of
23 county commissioners of the county other than as provided in subsection
24 (f).

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

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

30 (6) The tract is so situated that $\frac{2}{3}$ of any boundary line adjoins the
31 city, except no tract in excess of 21 acres shall be annexed under this
32 condition.

33 (7) The land adjoins the city and a written petition for or consent to
34 annexation is filed with the city by the owner. *This subsection from and*
35 *after January 1, 2008, may not be utilized by a city to annex a portion of*
36 *an individual's tract of land.*

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

40 (c) No city may annex, pursuant to this section, any improvement
41 district incorporated and organized pursuant to K.S.A 19-2753 et seq.,
42 and amendments thereto, or any land within such improvement district.
43 The provisions of this subsection shall apply to such improvement districts

5-5

1 for which the petition for incorporation and organization was presented
2 on or before January 1, 1987.

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

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

12 (f) No city may annex the right-of-way of any highway under the au-
13 thority of this section unless at the time of the annexation the abutting
14 property upon one or both sides thereof is already within the city or is
15 annexed to the city in the same proceeding. The board of county com-
16 missioners may notify the city of the existence of any highway which has
17 not become part of the city by annexation and which has a common
18 boundary with the city. The notification shall include a legal description
19 and a map identifying the location of the highway. The governing body
20 of the city shall certify by ordinance that the certification is correct and
21 declare the highway, or portion of the highway extending to the center
22 line where another city boundary line abuts the opposing side of the
23 highway, annexed to the city as of the date of the publication of the
24 ordinance.

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

31 (h) *No city may utilize any provision of this section from and after*
32 *January 1, 2008, to annex a narrow corridor of land to gain access to*
33 *noncontiguous tracts of land. The corridor of land must have a tangible*
34 *value and purpose other than for enhancing future annexations of land*
35 *by the city.*

36 Sec. 2. K.S.A. 2008 Supp. 12-520 is hereby repealed.

37 Sec. 3. This act shall take effect and be in force from and after its
38 publication in the Kansas register.

5-6

SENATE BILL No. 204

By Committee on Agriculture

2-4

9 AN ACT concerning ~~the~~ secretary of agriculture; relating to food safety
10 and lodging; disposition of moneys; creating the food safety and lodg-
11 ing fee fund; amending K.S.A. 2008 Supp. 74-591 and repealing the
12 existing section; also repealing K.S.A. 2008 Supp. 36-511

cities; relation to annexation

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

15 ~~[Section 1. K.S.A. 2008 Supp. 74-591 is hereby amended to read as~~
16 ~~follows: 74-591. (a) The balances of all funds or accounts thereof appro-~~
17 ~~riated or reappropriated for the department of health and environment~~
18 ~~relating to the powers, duties and functions transferred by this act are~~
19 ~~hereby transferred within the state treasury to the Kansas department of~~
20 ~~agriculture and shall be used only for the purpose for which the appro-~~
21 ~~priation was originally made. On and after October 1, 2004, all such bal-~~
22 ~~ances shall be deposited in the food safety fee fund and may be used to~~
23 ~~carry out the responsibilities and duties of the division of food safety of~~
24 ~~the Kansas department of agriculture, as established by this act. (b) There~~
25 ~~is hereby created the food safety and lodging fee fund. The Kansas de-~~
26 ~~partment of agriculture shall remit all moneys received by or for it from~~
27 ~~fees, charges or penalties from the powers, duties and functions trans-~~
28 ~~ferred to and imposed upon the department of agriculture and secretary~~
29 ~~of agriculture pursuant to K.S.A. 2008 Supp. 74-581 and 74-5,104, and~~
30 ~~amendments thereto, and any rules and regulations or orders issued there-~~
31 ~~under, to the state treasurer in accordance with the provisions of K.S.A.~~
32 ~~75-4215, and amendments thereto. Upon receipt of each such remittance,~~
33 ~~the state treasurer shall deposit the entire amount in the state treasury~~
34 ~~to the credit of the food safety fee fund: (1) An amount equal to the fees~~
35 ~~and charges in the state treasury to the credit of the food safety and~~
36 ~~lodging fee fund; and (2) an amount equal to the penalties in the state~~
37 ~~treasury to the credit of the state general fund. Expenditures from the~~
38 ~~food safety and lodging fee fund shall be made to reimburse each local~~
39 ~~agency under contract with the secretary of agriculture for food safety~~
40 ~~and lodging inspection services in an amount equal to 80% of the money~~
41 ~~received from such inspections in the municipality served by the local~~
42 ~~agency. All expenditures from the food safety and lodging fee fund shall~~
43 ~~be made in accordance with appropriation acts upon warrants of the di-~~

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Date 3-19-09
Attachment 6

6-2

1 [ractor of accounts and reports issued pursuant to vouchers approved by
2 the secretary of agriculture or by a person or persons designated by the
3 secretary.

4 (b) On July 1, 2009, the director of accounts and reports shall transfer
5 all moneys in the food service inspection reimbursement fund and the
6 food safety fee fund to the food safety and lodging fee fund. On July 1,
7 2009, all liabilities of the food service inspection reimbursement fund and
8 the food safety fee fund are hereby imposed on the food safety and lodging
9 fee fund and the food service inspection reimbursement fund and the food
10 safety fee fund are hereby abolished. Upon the abolition of the food service
11 inspection reimbursement fund and the food safety fee fund, any reference
12 to the food service inspection reimbursement fund, the food safety fee fund
13 or any designation thereof, in any statute, contract or other document
14 shall mean the food safety and lodging fee fund.

15 Sec. 2. K.S.A. 2008 Supp. 36-512 and 74-591 are hereby repealed.]

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

[On page 2 after line 15 insert section 1
of House Bill 2032 as amended by House
Committee

As Amended by House Committee

Session of 2009

HOUSE BILL No. 2032

By Committee on Local Government

1-20

10 AN ACT concerning cities; relating to annexation; amending K.S.A. 12-
11 531 and 12-532 and repealing the existing sections.

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

14 New Section 1. Except as provided in this section no land shall be
15 annexed pursuant to subsections (a)(1), (4), (5) and (6) of K.S.A. 12-520,
16 and amendments thereto, unless the board of county commissioners de-
17 termines by resolution adopted within 30 days following the conclusion
18 of the hearing on the proposed annexation that the proposed annexation
19 will not have an adverse effect on such county. The board of county
20 commissioners shall deliver a copy of such resolution to the city. If the
21 board of county commissioners fails to adopt such a resolution within the
22 30-day period, the annexation shall be deemed to have been approved by
23 the board of county commissioners.

24 Sec. 2. ~~K.S.A. 12-531 is hereby amended to read as follows: 12-531.~~

25 ~~(a) Five Three years following the annexation of any land pursuant to~~
26 ~~K.S.A. 12-520 or 12-521, and amendments thereto, or, where there has~~
27 ~~been litigation relating to the annexation, five three years following the~~
28 ~~conclusion of such litigation, the board of county commissioners shall call~~
29 ~~a hearing to consider whether the city has provided the municipal services~~
30 ~~as provided in the timetable set forth in the plan in accordance with K.S.A.~~
31 ~~12-520b or 12-521, and amendments thereto. The board of county com-~~
32 ~~missioners shall schedule the matter for public hearing and shall give~~
33 ~~notice of the date, hour and place of the hearing to: (1) The city, and (2)~~
34 ~~any landowner in the area subject to the service extension plan.~~

35 ~~—(b) At the hearing, the board shall hear testimony as to the city's~~
36 ~~extension of municipal services, or lack thereof, from the city and the~~
37 ~~landowner. After the hearing, the board shall make a finding as to whether~~
38 ~~or not the city has provided services in accordance with its service exten-~~
39 ~~sion plan. If the board finds that the city has not provided services as~~
40 ~~provided in its service extension plan, the board shall notify the city and~~
41 ~~the landowner that such property may be deannexed, as provided in~~
42 ~~K.S.A. 12-532, and amendments thereto, if the services are not provided~~
43 ~~within 2½ years one year of the date of the board's findings.~~

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