

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Nancy Brown at 1:30 p.m. on February 18, 1993 in Room 521-S of the Capitol.

All members were present.

Committee staff present: Michael Heim, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Lois Hedrick, Committee Secretary

Conferees appearing before the committee: Representative Fred Gatlin
David Furnas, Executive Director, Kansas Press Association
Representative Elaine Wells
Richard Maginot, Soldier Township, Topeka
Clayton Bowman, Mission Township Trustee, Topeka
Bernard St. Louis, of Topeka
Randy Downing, of Overland Park
Richard Galamba, Board Member, South Johnson County
Volunteer Fire/Rescue Inc.
Paul Adams, of Grandview, Missouri (director of Fire
District No. 1 in Johnson County)
Don Moler, League of Kansas Municipalities

Others attending: See Guest List ([Attachment 1](#))

The Chairman opened the hearing on **HB 2434**, concerning the official county newspaper. Representative Fred Gatlin, appeared in behalf of the bill (see [Attachment 2](#)). Representative Alldritt asked why the bill was limited to counties with a population under 5,000. Representative Gatlin replied that this is a local issue.

David Furnas, Executive Director of the Kansas Press Association, appeared as a proponent of **HB 2434** and recommended that an amendment be made so that it was uniform to all counties. He stated that the legal notice is a profitable business in some areas; while in others it is not a major source of financing. (See [Attachment 3](#).)

There were no others present to testify, therefore the Chairman closed the hearing on **HB 2434**.

Chairman Brown opened the hearing on **HB 2325**, concerning township and township fire districts; fire vehicle, machinery and equipment rescue fund. Representative Elaine Wells spoke as a proponent of the bill (see [Attachment 4](#)).

Jim Coder, Assistant Attorney General for the State Fire Marshal Department, also testified in behalf of **HB 2325** (see [Attachment 5](#)) and urged its approval.

Richard Maginot of Soldier Township, Topeka, offered testimony in support of **HB 2325** (see [Attachment 6](#)). Clayton Bowman, Mission Township Trustee, Topeka, endorsed **HB 2325** but recommended the bill be amended to add land acquisition. The Chairman replied that **2325** dealt with a special fire fund and that his amendment would affect another statute. Tim Hay's written testimony (Fire Chief of the Mission Township Fire/Rescue Department) was distributed ([Attachment 7](#)). Also distributed were the written testimonies of Jim Strohm, Chief, and Carl Titsworth, Treasurer, both of the Burlingame Fire Department (see [Attachments 8 and 9](#)).

There were no others present to testify, therefore the Chairman closed the hearing on **HB 2325**.

The Chairman opened the hearing on **HB 2419**, concerning annexation of land located within a fire district. Theresa Kiernan, Revisor's Office, explained the history of the bill. It was stated that the bill, if enacted, would not stop annexation, but is intended as an equity issue.

Bernard St. Louis, Jr., a resident of rural Topeka, testified concerning **HB 2419** (see [Attachment 10](#)). Upon questioning, Mr. St. Louis stated he is only a patron of a fire department and was concerned about the bill as a result of Topeka's annexation bid for the Lake Sherwood area, which failed. He urged several amendments to the bill, stressing equity to the patrons as his reason for making such suggestions.

Randy Downing, of 11208 W. 120, Overland Park, presented the written testimony of Rod Richardson, Chairman of the Johnson County Rural Fire Department No. 2. Mr. Downing stated that the bill is of great concern to the fire district. (See Mr. Richardson's written testimony, [Attachment 11](#)).

Richard Galamba, a board member of the South Johnson County Volunteer/Fire Rescue Inc., presented testimony in support of **HB 2419** (see Attachment 12). He stated the district covers 130 square miles and, with annexation encroaching on the district to 183d and Metcalf, taking the largest tax base, the operating costs continue. He recommended the passage of the bill and said he believes that the bill is beneficial to the whole state.

Mike Heim, Legislative Research staff member, stated there are two issues involved: (1) the extent a city can annex unilaterally--both pieces have to fit the unilateral standard; and (2) Johnson County's special law that restricted annexation--the issue of whether land is detached from the fire district. The Chairman stated bilateral annexations go before the board of county commissioners. This bill simply adds another provision to the requirements to be presented for consideration under bilateral annexation. The bill permits the fire district to keep the tax base if land is annexed to a city.

Paul Adams, of Grandview, Missouri (a director of Johnson County Fire District No. 1), testified on **HB 2419** and stated that the findings of fact in the bill are the same facts existing in the detachment process that took place in Gardner in 1984. **HB 2419** places the findings of fact at the beginning of the annexation process where it belongs, rather than at the end of the process when citizens have little recourse.

Don Moler testified in behalf of the League of Kansas Municipalities and the League's opposition to **HB 2419** (see Attachment 13). The League believes that it is unnecessary to add another criteria for annexation, which now stands at 19 findings of fact before annexation can proceed. The League believes that county commissioners, under K.S.A. 521, have the authority to annex if they choose to incorporate fire districts pursuant to a recent Supreme Court case.

There being no others to testify on **HB 2419**, the hearing was closed.

The meeting was adjourned at 3:20 p.m. The next meeting is scheduled at 1:30 p.m., February 22, 1993, in Room 521-S of the State Capitol.

GUEST LIST

COMMITTEE: House Local Government

DATE: February 18, 1993

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Mike Miller	Topeka	City of Topeka
JIM LOGBACK	Will City	Will City Times
DAVID L. FURNAS	TOPEKA	Ks PRESS
Bernie St. Louis	Topeka	—
Marcia St. Louis	Topeka	—
Don Johnson	Topeka	—
Jim Strahm	Burlingame	Burlingame Fire Dep
Tim Hay	Topeka	Mission Twp. Fire
CLAYTON H. BOWMAN	TOPEKA	Mission Twp. TRUSTEE
Don Moker	Topeka	Leawood KS Municipal
Karl McNorton	Topeka	Soldier Twp
RICHARD MAGNOT	TOPEKA	SOLDIER TWP.
James A. Ladd	Wichita	KS 77A
Barbara Butts	Topeka	Dept of Public
Jim Coder	Topeka	KS F M
John Ensky	Topeka	Ks. Press Assoc
Randy Downing	11208 W. 120 OVERLAND PARK	—
RICHARD GALAMBA	OVERLAND PARK	SOUTH JOHNSON COUNTY VOLUNTEER FIRE/RESCUE INC.
PAUL ADAMS	GRANDVIEW, MO	F.D. 1 - JOHNSON COUNTY
		ATTACHMENT 1
		2-18-93

STATE OF KANSAS

FRED GATLIN
REPRESENTATIVE, 120TH DISTRICT
CHEYENNE, RAWLINS, DECATUR,
NORTON, WESTERN PHILLIPS
610 MAIN
ATWOOD, KANSAS 67730



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER: AGRICULTURE
APPROPRIATIONS
ENERGY AND NATURAL RESOURCES
JOINT COMMITTEE ON HEALTH
CARE DECISIONS FOR 90'S

Testimony on House Bill No. 2434
Before the
House Local Government Committee
February 18, 1993

Madam Chairman, members of the Committee:

Thank-you very much for allowing me an opportunity to testify. My interest in this legislation is the result of a local community event. Our local county and city paper was purchased about three years ago by an out-of-state corporation. After a long detailed conflict, an opposition paper developed and began printing in October of 1992.

In the investigation of the financial feasibility of an alternative paper, legal notices and their effect on profitability were discussed. I discovered following up on a request in regard to that issue, a statute (12-651) for cities of the second and third class, which reduces to one year the amount of time that a paper must be in existence before it can be designated a city paper. The statutes relating to county official newspapers makes no distinction for size of county. I thought that it was consistent with the established policy for city designations of official newspapers, to make the change you see before

ATTACHMENT 2-1
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you. This bill allows counties of 5,000 or less to designate a paper to be the official county paper after that paper has published for one year.

Small town newspapers are economically very fragile. Many of you may have read of the chapter 11 closing of Mycro Tech, a computer company dealing with small newspapers in Wichita. In the article talking about the reason for the the chapter 11 filing, it was stated that the difficult financial times for small newspapers that they served was a major factor in their demise.

It is reasonable for the city and county government both to take part in the decision over which of these competing newspapers will be designated as the county and city newspaper. I ask for your support for House Bill 2434.

I would be pleased to stand for any questions.

ATTACHMENT 2-2
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Kansas Press Association
Inc.

5423 S.W. 7th St., Topeka, KS 66606 (913) 271-5304, Fax (913) 271-7341

Testimony
for
House Local Government Committee
on HB 2434

Madam Chairman and members of the committee. My name is David Furnas and I am the executive director of the Kansas Press Association.

I appear today in support of the concept of reducing from five years to one year the requirements for official county newspaper and would recommend that simple amendment be made for all counties. I would be glad to answer any questions.

ATTACHMENT 3
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STATE OF KANSAS

ELAINE L. WELLS
REPRESENTATIVE, FIFTY-NINTH DISTRICT
OSAGE AND NORTH LYON COUNTIES
R.R. 1, BOX 166
CARBONDALE, KANSAS 66414
(913) 665-7740

STATE CAPITOL
RM. 182-W
TOPEKA, KS 66612-1504
(913) 296-7637



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE-CHAIR: GOVERNMENT ORGANIZATION
AND ELECTIONS
MEMBER: PUBLIC HEALTH AND WELFARE
JUDICIARY

TESTIMONY ON H.B. 2325
TO

HOUSE COMMITTEE ON LOCAL GOVERNMENT

FEBRUARY 18, 1993

Thank you Madame Chairman for the hearing on this bill and for the opportunity to testify on it.

H.B. 2325 allows a township to transfer money into a reserve fund for fire equipment, fire vehicles, and machinery.

Currently a reserve fund, as I understand it, is allowed for maintenance equipment, but not for fire equipment.

The language in this bill is fashioned after the same language established for the special road, bridge or street building machinery, equipment and bridge building fund, K.S.A. 68-141g.

Since many of our fire departments are voluntary it is important for them to be able to maintain their current equipment and to be able to replace it when necessary. A reserve fund will allow them better ability to purchase new equipment when an dire need or emergency exits.

Again, thank you, and I will be happy to try to answer any questions.

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"Where Fire Safety Is A Way Of Life"

Kansas State Fire Marshal Department
700 Jackson, Suite 600
Topeka, Kansas 66603-3714
Phone (913) 296-3401
FAX (913) 296-0151

Joan Finney
Governor

Edward C. Redmon
Fire Marshal

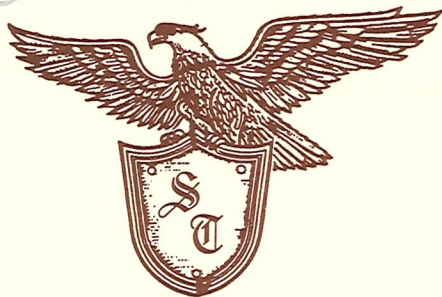
TESTIMONY OF JIM CODER
ASSISTANT ATTORNEY GENERAL
STATE FIRE MARSHAL DEPARTMENT
HOUSE BILL 2325
HOUSE LOCAL GOVERNMENT COMMITTEE
FEBRUARY 18, 1993

On behalf of the State Fire Marshal I am appearing in support of House Bill 2325. The State Fire Marshal's Office is in daily communication with fire chiefs and firefighters. One of the most frequent concerns we hear is regarding equipment. Firefighters are concerned because many times the equipment isn't up to snuff. They feel they are putting their lives on the line many times with non working or substandard equipment. The smaller volunteer departments, like many who would be affected by this bill are the ones we hear these concerns from more than any other.

The fire chiefs likewise are concerned. They feel the same safety concerns as the firefighters, but they also have the frustrations of dealing with budgets. Firefighting machinery and equipment are high dollar items. Many of these departments don't have the tax base to furnish fire protection in addition to updating or replacing equipment and machinery.

House Bill 2325 would allow an equipment reserve fund to be carried over from year to year for the purpose of purchasing firefighting equipment and machinery. With such an ongoing fund, these smaller departments may be able to buy appropriate equipment and machinery.

On behalf of the State Fire Marshal, and the firefighters and fire chiefs throughout the state, I urge you to approve House Bill 2325.



Soldier Township

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

Testimony on H.B. 2325

To
House Committee On Local Government

By
Richard Maginot
Township Business Administrator

Thank you for hearing this bill and for the opportunity to testify on the bill.

H.B. 2325 allows a township to transfer monies into a reserve fund to purchase fire equipment, fire vehicles and machinery.

In 1988 Soldier Township purchased a 1250 gallon per minute pumper truck at a cost of \$105,000. Loose equipment on this truck is valued at \$35,000. The majority of the money for this vehicle came from the last of the Township's Federal Revenue Sharing Money.

Within the next five to six years we will need to replace a 3000 gallon tanker truck at an estimated cost of \$125,000. With a total annual budget of \$210,000, it will be impossible to replace this truck or make future purchases such as this unless we can set aside monies in a reserve fund each year.

We currently have the ability to establish a reserve fund for our road department under K.S.A. 68-141g. H.B. 2325 would allow us to do the same thing for our fire department.

We are not asking to raise our mil levy, only for the ability to manage our present resources wisely. H.B. 2325 is extremely important to the continued efficient operation of our Township and we ask for your support of the bill.

Again thank you. I will be happy to answer any questions.

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CASE ANNOTATIONS

1. Discussed in construing county road unit system law (68-516, 68-516a). *Rausch v. Hill*, 164 K. 505, 510, 190 P.2d 357.

68-141b. Supervision by experienced operator; times for renting; charges. Any machinery or equipment requiring an experienced operator shall be rented or hired only under the supervision of an experienced employee of the county or township. It shall be hired or rented only at such times as it is not being used by the county or township in its own work. The charges for the use of said machinery or equipment shall be sufficient to defray the expense of the county or township employee operating said machinery or equipment, and the cost of operating said machinery or equipment, together with any charges for additional insurance that the county or township may be called upon to pay for the additional liability assumed. The charges shall be the same to all persons for the use of said machinery and equipment under similar circumstances.

History: L. 1933, ch. 235, § 2; June 5.

68-141c. Revenue to road fund. The revenue derived by the county or township from the rentals shall be placed in the road-maintenance fund of the county or township.

History: L. 1933, ch. 235, § 3; June 5.

68-141d, 68-141e.

History: L. 1941, ch. 315, §§ 1, 2; Repealed, L. 1947, ch. 338, § 1; June 30.

68-141f. Setting aside portions of road and bridge or street funds; definitions. As used in this act, the following terms shall have the meaning ascribed to them by this section unless the context otherwise requires.

(1) "Municipality" means any city or county and any township which is not located in a county operating under the county road unit system.

(2) "Governing body" as applied to a county, means the board of county commissioners; as applied to a township means the township trustee, the township treasurer and the township clerk acting as a board; and as applied to a city means the governing body of such city regardless of the form of government of such city.

History: L. 1941, ch. 316, § 1; April 12.

68-141g. Same; resolution of governing body; procedure; retransfer, when. The governing body of any municipality by resolution is hereby authorized and empowered to transfer, annually, from the road, bridge or street fund of such municipality not to exceed twenty-five percent (25%) of the amount of money credited to any such fund, and subject to legal expenditure, in such year to a special road, bridge or street building machinery, equipment and bridge building fund.

Upon the adoption of such resolution, a copy thereof shall be delivered to the treasurer of such municipality and he shall credit the amount provided in such resolution to such special fund and shall debit the road, bridge or street fund as the case may be. All moneys credited to such special fund shall be used by such municipalities for the purpose of purchasing road, bridge or street building machinery or equipment or the building of bridges and such fund shall not be subject to the provisions of K.S.A. 79-2925 to 79-2937 or acts amendatory thereof or supplemental thereto, except that in making the budgets of such municipalities the amounts credited to, and the amount on hand in, such special fund and the amount expended therefrom shall be shown thereon for the information of the taxpayers of such municipalities.

If the governing body of any municipality shall determine that money which has been transferred to such special fund or any part thereof is not needed for the purposes for which so transferred, said governing body is hereby authorized and empowered by resolution to retransfer such amount not needed to the road, bridge or street fund of such municipality and such retransfer and expenditure thereof shall be subject to the provisions of K.S.A. 79-2925 to 79-2937 or acts amendatory thereof or supplemental thereto.

History: L. 1941, ch. 316, § 2; L. 1951, ch. 375, § 1; June 30.

PROTECTION OF CONTRACTORS WITH
RELATION TO PATENTS ON CONCRETE
REINFORCEMENT

68-142 to 68-144.

History: L. 1917, ch. 81, §§ 1 to 3; R.S. 1923, 68-142 to 68-144; Repealed, L. 1961, ch. 300, § 1; June 30.

PROVISIONS APPLICABLE TO

68-145, 68-146.
History: L. 1917, ch. 81, §§ 1 to 3; R.S. 1923, 68-145, 68-146; Repealed, L. 1961, ch. 300, § 1; June 30.

68-147.
History: L. 1917, ch. 81, §§ 1 to 3; R.S. 1923, 68-147; Repealed, L. 1961, ch. 300, § 1; June 30.

68-148.
History: L. 1917, ch. 81, §§ 1 to 3; R.S. 1923, 68-148; Repealed, L. 1961, ch. 300, § 1; June 30.

68-149.
History: L. 1917, ch. 81, §§ 1 to 3; R.S. 1923, 68-149; Repealed, L. 1961, ch. 300, § 1; June 30.

68-150.
History: L. 1917, ch. 81, §§ 1 to 3; R.S. 1923, 68-150; Repealed, L. 1961, ch. 300, § 1; April 1.

68-151. Vacate any county. Laws 1917, ch. 81, §§ 1 to 3; R.S. 1923, 68-151; included by reference in section line public law.

History: R.S. 1923, 68-151. Road and bridge funds. federal flood control. ing out or altering. county commission. vacate any county within the bounds of federal flood control highways, whenever necessary and may such roads within such roads are vacated, the board shall give notice of such action once in the official notice by sending notice to owners of the property proposed to be altered where the owner of the property. The notice shall contain places where such roads are ing out or altering such roads. cation of the notice of such action days before the roads are laid out or altered.

History: L. 1917, ch. 81, §§ 1 to 3; R.S. 1923, 68-151; L. 1961, ch. 339, § 1; L. 1961, ch. 339, § 1; L. 1961, ch. 339, § 1.



3101 SW Urish Road • Topeka, Kansas 66614 (913) 478-4053

February 18, 1993

Dear Representatives:

I recommend that House Bill 2325 be endorsed that will allow Township Fire Departments to create a vehicle, and equipment reserve fund.

As an administrator it is very frustrating to make long range plans considering major vehicle or equipment purchases. Presently city, county, and fire districts have the benefit of a reserve fund. Township Fire Departments do not. It is very difficult to try and plan a purchase five years in the future. There may be an anti-tax sentiment among the voters if a bond election was proposed. If it is an election year, it is usually unpopular to raise mill levies for purchases.

The reserve fund would allow Township Fire Departments to put back money each year to purchase equipment when it is needed. We could then make long range plans instead of planning from year to year. This reserve fund is only common sense to efficient management practices. I think this bill will benefit the taxpayers in terms of more efficient services, and a more stable mill levy year to year.

Sincerely,

A handwritten signature in cursive script that reads "Tim Hay".

Tim Hay
Fire Chief
Mission Township Fire/Rescue

"CHECK YOUR SMOKE DETECTORS TODAY"

ATTACHMENT 7
2-18-93



Burlingame Fire Department
Since 1876
Burlingame, Kansas 66413



Dear Representatives:

It is my recommendation that House Bill No. 2325 be passed to allow townships to create a vehicle, machinery and equipment reserve fund for fire equipment.

Under current laws, a township is not allowed to transfer funds from one budget year to the next in order to build a reserve fund for fire equipment. This leaves no other choice than No Fund Warrants to acquire most fire apparatus and equipment. In several cases, some apparatus and machinery could be purchased, without No Fund Warrants, if more than one year's small equipment budgets could be combined into a reserve fund. This would allow some apparatus and machinery to be purchased without raising taxes to support No Fund warrants. It would be more appealing to taxpayers to have their taxes stay at a steady rate than the up and down trend that would occur with the issuing and retiring of No Fund Warrants.

A reserve fund would also allow more flexibility in purchasing. For example, if a township wanted to purchase a piece of fire apparatus that cost \$10,000, and they could only budget \$5,000 each year for new equipment, the purchase would most likely be made during the time frame at the end of one year and the beginning of the next. This not only is a bookkeeping nightmare but it greatly decreases the township's options of shopping around for the best deal.

In short, I recommend this bill to provide townships a means of spending their taxpayer's money more economically as well as providing a steady stock of dependable equipment and fire protection.

Sincerely,

Jim Strohm, Chief
Burlingame Fire Department
R.R. 2 Box 23A
Burlingame, KS 66413

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House Bill No. 2325

My name is Carl Titsworth and I am the Treasurer of the Burlingame Township in Osage County.

Burlingame Township joined with Dragoon Township in 1958 to create a Volunteer Fire Department to serve the people in both Townships. The Fire Department, like many others, started out with surplus Forestry Department Equipment. In the mid 70's, we joined with the City of Burlingame to create a volunteer Fire Department that is one of the best in the state.

Presently we have two 3/4 ton four wheel drive brush trucks, one a 1976 model and the other a 1978 model. We also have a 1977 Tanker and a 1974 pumper. All of the vehicles are in fair to good condition. However, due to the type of terrain these vehicles cover in responding to brush and pasture fires, they will need to be replaced in the next few years.

The Burlingame Township yearly fire budget is \$9,800.00 of which \$7,371.55 is paid as its share in running the fire department. This leaves \$2,428.45 to spend on major repairs and other expenses such as new hose and pumps and fire gear. By law, the Fire Budget can only be spent on fire department items.

At the present time, the only way to make a major purchase is by using No Fund Warrants and our taxpayers have let us know that they do not favor this method. House Bill 2325 would give the townships an option in planning for future replacements and major expenses without raising any addition taxes.

Thank you for your consideration of this matter.

ATTACHMENT 9
Written Testimony
Handed out by Rep Wells
2-18-93

Testimony of Bernard St. Louis
February 18, 1993
RE: House Bill No. 2419

My name is Bernie St. Louis and I reside at 3606 SW Blue Inn Court, Topeka, Kansas. It is a pleasure and a privilege for me to address you today regarding House Bill 2419.

I have had the opportunity to review this bill and would like to make some comments and observations about it as it is currently written. I would also like to offer a few suggestions to enhance the changes that the bill is intending to make in the current annexation laws.

It is apparent that the bill as drafted intends to afford fire districts and township fire districts the same protection under the law as is currently afforded to improvement districts. That is, I believe the intent of this bill is to give county commissions the opportunity to decide on the annexation of fire districts or any portion of a fire district in bilateral fashion, instead of giving cities unilateral annexation authority over these districts.

It is apparent that the bill as drafted intends to apply some rigorous qualifications that cities must address regarding the annexation of fire districts or township fire districts. These qualifications have been inserted to assure that the effects of annexation on entire communities are taken into account before annexation is allowed. Written findings of fact and conclusions are required which determine whether the annexation causes manifest injury to the fire district proposed for annexation, or to the city if the annexation is not allowed.

As I mentioned before, I believe House Bill 2419 intends to treat fire districts and township fire districts in the same fashion as improvement districts. It is with this in mind that the following changes are suggested:

- 1) Page 2, lines 5 through 9 be rewritten to read '(d) Subject to the provisions of this section and subsection (f) of K.S.A. 12-520A, and amendments thereto, no city may annex, pursuant to this section, any fire district organized under the

ATTACHMENT 10-1
2-18-93

provisions of K.S.A. 19-3601 et seq., and amendments thereto, or any land within such fire district.'

Changing the word 'a' in line 6 to 'no', gives fire districts the right to bilateral annexation as is intended by this amendment. Without this change, cities would have the right to unilaterally annex any portion or all of a fire district, which possibly could consist of thousands of acres of agricultural land. I believe this would be contrary to the provision in K.S.A. 12-520 that states that 'No portion of any unplatted tract of land devoted to agricultural use of 21 acres or more shall be annexed by any city under the authority of this section without the written consent of the owner thereof.'

The change in the reference to K.S.A. 19-3613 et seq. to K.S.A. 19-3601 et seq., shown on page 2, line 8, would provide for this amendment to apply to all fire districts statewide and not only those in counties where the population is over 90,000 persons. I believe this is also the intent of this bill.

2) Page 4, lines 7 through 27 - delete entirely from this section.

This section as written gives cities quasi-judicial authority to determine whether manifest injury exists when annexing fire districts. The problem with this is that the city has already decided to annex the land through resolution, therefore giving cities the authority to determine manifest injury is similar to giving a fox the right to eat only the scrawny chickens in the hen house . . . they all become scrawny very quickly.

Under these proceedings, the fire district does not have any representation, since the annexation is unilateral in nature.

3) Page 7, line 20 to read 'districts, and fire districts;'

The reference to section 2 was deleted above and is no longer applicable.

4) Page 7, line 28 - insert the following or similar language: '(15) if the area to be

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annexed is a fire district organized under the provisions of K.S.A. 19-3601 et seq. and amendments thereto, a township fire district, or any portion thereof, the board shall also take into consideration, but not be limited to, the:

- a) Response time of the city and the fire district to the area proposed to be annexed;
- b) impact on the fire district from the decrease in its tax base if the annexation is approved;
- c) impact on the city's provision of fire service if the annexation is disapproved;
- d) impact on the residents of the area if the annexation is approved; and
- e) impact on the remainder of the fire district and/or township if the annexation is approved.'

The inclusion of this wording in this section gives county commissions, not cities, the authority to determine if manifest injury exists to the fire district, city, or community as a whole. I believe this is what House Bill 2419 intends to accomplish.

I live within an improvement district that has been the target of two annexation attempts by the City of Topeka in the past six years. Prior to the amendments to the annexation statutes in 1987, our improvement district was subject to annexation under the unilateral provisions of the law. Now we are afforded representation by the county commission and annexation attempts are bilateral in nature.

In August, 1991 the current statutes were tested by the City of Topeka. The Shawnee County Commission voted to disallow the annexation. One of the major reasons the Shawnee County Commission disallowed the annexation was on the basis that annexation would cause manifest injury to the township as well as to the residents of the City of Topeka. It was not in the best interest of the community as a whole, based on the written findings of fact. The City appealed the decision all the way to the Kansas Supreme Court, which unanimously upheld the county commission's findings.

I make this point to let you know that the current law gives improvement districts some equity when annexation becomes an issue. The current law was tested in the Kansas Supreme Court and proved to be a fair law for all parties concerned. This bill attempts

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to do the same for fire districts and township fire districts. With the changes I have suggested, I believe you also provide the same fairness to residents of fire districts when threatened by annexation.

Thank you for the opportunity to share my opinions regarding House Bill 2419.

ATTACHMENT 10-4

2-18-93

February 18, 1993

Representative Nancy Brown
Chairperson, Local Government Committee
State Capitol Building
Topeka, Kansas

Re: House Bill No. 2419
Hearing Date: February 18, 1993
1:30 P.M.

Dear Chairperson Brown:

I am writing on behalf of Johnson County Fire District No. 2 (Rural) in support of House Bill No. 2419. Our district believes that this bill will afford critical protection to rural fire districts that would be faced with the loss of critical revenues as the result of loss of tax base due to annexation.

Our goal is to assure that if annexations occur, the rural Fire Districts' ability to continue to provide fire and ambulance protection is not compromised. It is not our purpose to oppose annexation. However, it is a fact that loss of tax base as a result of annexation causes the loss of previously budgeted revenue.

Our District supports the efforts of the Committee to consider viable ways to protect rural fire districts from the unintended negative effects of annexation. We ask that you support Representative Brown's bill.

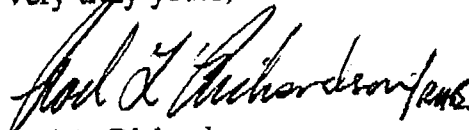
I am required to be out of town for the rest of the week, otherwise, I would personally testify

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Representative Nancy Brown
February 18, 1993
Page 2

before your committee, however, this letter reflects the views of our Board.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Rod L. Richardson".

Rod L. Richardson
Chairman
Johnson County Fire District
No. 2 (Rural)

RLR/pw

I am Richard I. Galamba, a member of the Board of South Johnson County Volunteer Fire/Rescue Inc. I am also an officer in charge of the department, a as volunteer. I am the president and owner of Galamet Inc., a scrap metal processor, and reside in the community of Aubry Township, Stilwell, for the past 16 years.

I am here to testify in support of HB 2419, but first I want to set the stage for our support. This bill is not about annexation which conjures up many emotions. Let me emphasize again. . . this bill is not about cities and annexation as defined in current law. This bill is not changing the annexation proceedings in any way other than to provide additional information to assist in the proceedings.

What the bill is about is fire districts. . . and information which is important to be shared and considered in the annexation process.

Current law states that at the time of annexation, if the city is not permitted to annex under KSA 12-520 (which I understand has specific conditions), the governing body of a city presents a petition to the county. A hearing is then set and the city presents testimony to the county about the areas to be annexed. This information is contained in the bill on pages 6-7. We support this procedure, but this information is incomplete. It only provides the county commissioners with information about the land in the annexed area, but does not take into consideration the important information regarding the fire district as explicitly as expressed on page 8 of the bill, New Section 4.

We feel it is extremely important to also include the possibility of manifest injury to the fire district as outlined on page 4 of the bill.

Fire districts, as you know, derive their funding from the taxpayers. . . property taxes. When a portion of the district is annexed to a city, the remaining portion of the district does not lower their obligation in capital expenditures. The fire station remains, the equipment must be maintained, and rarely does the staff size shrink, particularly in a paid/volunteer situation like ours. So how do we continue to provide an adequate level of safety for the remaining residents? We don't. . . at least not without a tax increase and then we are limited in what we can tax. Besides, why

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should remaining residents who have no voice in the annexation have their taxes increased so a city can annex land?

Another ironic consideration is when the fire station itself is annexed. Let me share an interesting situation with you. Recently a fire station was annexed in Johnson County by the city of Overland Park. Not all the residents who paid and were continuing to pay for the fire station were annexed. Yet the obligation remains with the residents who were in the district at the time it was formed. A contract was arranged, but after 1993 a new arrangement must be made for fire service. At what additional cost? We don't know. So we have a situation where residents are paying for a fire station which they must now contract with for fire service, while others utilize "their" fire station and are not paying for it.

We feel it is vital that all information be obtained and considered by those in the decision-making process. Certainly we trust that responsible elected officials will consider all the information that is presented to them. . . but the information requested in the bill is not provided to them and, even if it were, it could be disregarded. Nothing in current law states that those outside the annexed area should be considered for "manifest injury". Without the bill, it becomes the obligation of the district or the remaining residents to provide this information (awkward when some of the employees and volunteer fire fighters are employed by the annexing city) .

We respectfully request that you consider the passage of this bill in the essence of fairness. As I mentioned earlier, we are not here to support or oppose annexation. We are here to request that additional information be required to be considered by the governing bodies in their decision making deliberations. This is merely an equity issue, not an annexation issue, and we fail to understand how anyone or any city could possibly be opposed to this request for additional information prior to making a decision.

Thank you for your consideration.

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**THE LEAGUE
OF KANSAS
MUNICIPALITIES**

**Municipal
Legislative
Testimony**

AN INSTRUMENTALITY OF KANSAS CITIES 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: House Committee on Local Government
FROM: Don Moler, Senior Legal Counsel
RE: HB 2419
DATE: February 18, 1993

I appreciate the opportunity to appear today to comment on HB 2419. Specifically the League is concerned about the narrowing of annexation authority which we perceive to be present in the proposed legislation. The League's Statement of Municipal Policy, 1992-1993, section I-4 (3) states "We oppose any legislation that would further restrict the power of cities to annex." We must therefore oppose the limiting of annexation authority found in HB 2419. We believe that the problem that this legislation addresses could and should be dealt with through the Johnson County fire district statutes found in K.S.A. 19-3613 et seq. rather than in the general annexation law.

A significant problem we found in the proposed legislation is in the fact that the amendment to K.S.A. 12-521 (d) appears to make the statute nonuniform and thus violates the constitutional provisions of the home rule amendment (Article 12, Section 5 of the Kansas Constitution) by creating a nonuniformity in the general annexation law. This would appear to make the legislation unconstitutional on its face.

The League strongly urges you to give careful thought to your direction on this issue. Cities desperately need stability in the state annexation law in order to make reasonable plans to serve the Kansans who live in our cities. No changes should be undertaken which have not been completely discussed and all possible ramifications determined before modification of the law takes place.

Thank you for allowing our comments on this legislation.

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