Approved February 16, 1983
Date

MINUTES OF THE House COMMITTEE ON Commercial & Financial Institutions.

The meeting was called to order by Representative Harold P. Dyck at
Chairperson

3:30 ~~a.m.~~/p.m. on February 14, 1983 in room 527-S of the Capitol.

All members were present except:

Representative Schmidt, excused.

Committee staff present:

Bill Wolff, Research Department
Bruce Kinzie, Revisor of Statutes' Office
Martha Evans, Committee Secretary

Conferees appearing before the committee:

Rep. Mike Meacham, Chairman of Interim Committee
Bill Wolff, Legislative Research Department

HB 2001 - An act relating to bank holding companies; amending K.S.A. 17-1252 and repealing the existing section; and also repealing K.S.A. 9-504, 9-505, 9-505a, 9-505b and 9-505c.

Chairman Dyck opened the meeting by reminding the committee that after Monday's briefing on HB 2001 they would hear testimony of proponents on Tuesday, February 15; a meeting for testimony of opponents on Wednesday, February 16; and discussion scheduled for Thursday, February 17. He said that the committee would not act on the bill immediately after all this input, but would wait until the members had time to reflect on the quantity of information and the varied views they would be receiving.

He told the committee that HB 2001 was the first House Bill introduced in 1983 and was recommended by a Special Interim Committee which studied the proposal (Proposal No. 7). He then asked Rep. Mike Meacham, the Chairman of the Interim Committee and former Vice Chairman of this committee, to brief the members on the interim study, its conclusions and recommendations.

Rep. Meacham addressed the committee explaining the work and conclusions of the Interim Committee. He made reference at many points to the Committee Report (Attachment 1) contained in the "Report on Kansas Legislative Interim Studies to the 1983 Legislature", which was filed with the Legislative Coordinating Council in December of 1982. Rep. Meacham said that the Interim Study had reached out to the people of Kansas and had contacted those with a special interest in the proposal including 350 banks as well as business and consumer groups. He said that the Interim Committee had been a good one and stated the quality of the testimony presented by both the proponents and opponents had been excellent. Because there was very little interest in other areas to be covered by the Interim Study, he said the study had been more or less limited to the multibank holding company issue. He stressed that the Committee had not placed any limitations in the bill but had decided to leave that matter to the Standing Committees in the House and Senate, if they so desired to do so.

Bill Wolff of Legislative Research then presented the committee with a broad picture of what was involved in HB 2001. He said he would attempt to present an objective picture without any of the assumptions that are sometimes associated with the testimony presented by pros and cons of a bill. Dr. Wolff explained the findings of the Interim Committee as contained in the Committee Report, pointing out that there was also a Minority report--that the recommendation of the Committee to introduce this bill was not unanimous. Dr. Wolff answered questions of the committee members and assured them that he would be most happy to answer questions or help them in any way he could at any time.

The meeting was adjourned at 5:10 by the Chairman.

The next meeting of the committee will be held at 3:30 p.m. on February 15, 1983.

Report on Kansas Legislative Interim Studies

to the

1983 Legislature

SPECIAL COMMITTEES

Filed With the Legislative Coordinating Council

December, 1982

Attachment 1

Hse C & F I - Feb. 14, 1983

RE: PROPOSAL NO. 7 - STRUCTURE OF FINANCIAL INSTITUTIONS*

Proposal No. 7 - Structure of Financial Institutions directs the Special Committee on Commercial and Financial Institutions to: "Consider the need for legislation amending state statutes relating to the structure of financial institutions (banks, savings and loan associations and credit unions), including the examination of multi-bank holding companies, branch banking, extended service at detached facilities, and expanded electronic funds transfer as alternatives to existing operations; and monitor federal congressional and regulatory activities which might impact financial institutions in Kansas."

Structure of Financial Institutions

Background

At the outset of the interim study, several terms associated with the study were defined.

1. Branch Banking refers to conducting business in more than one location by a single bank under one charter. The deposits of a branch are included in the deposits of the entire organization, and the legal loan limit is based on the capital structure of the entire bank.

2. Chain Banking is the ownership or control of two or more banks by one individual or group of individuals.

3. Detached Auxiliary Banking Service Facility is a bank establishment located physically apart from the main bank, but offering limited services.

4. Electronic Funds Transfer is a payment system in which the processing and communications necessary to effect economic exchange, and the processing and communications necessary for the production and distribution of services incidental or related to economic exchange, are dependent wholly or in large part on the use of electronics.

5. Multi-bank Holding Company refers to the ownership of two or more banks by a corporation which determines the policies of each bank through the appointment of directors. Each bank, however, retains its own charter, officers, and identity.

6. One-Bank Holding Company refers to the ownership or control of not more than one bank by a corporation.

7. Unit Banking refers to a system of commercial banking wherein each bank operates only one main bank office and which is not related to other banks either through ownership or control.

Branch Banking. Branch banking is the most widespread system of commercial banking in the world. Only in the United States has branch banking not emerged as the predominant form of banking structure. While many United States banks operate abroad, no bank in this country operates on a nationwide basis and, with rare exception, do banks operate in more than one state.

The regulation of bank structure rests with the individual 50 states. By federal law, the McFadden Act, even national banks chartered by the Office of the Comptroller of the Currency are subject to branching restrictions enacted by individual states. Specifically, 12 U.S.C. 36(c) provides:

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* H.B. 2001 accompanies this report.

"(c) A national bank association may, with the approval of the Comptroller of the Currency, establish and operate new branches. . . (2) at any point within the State in which said association is situated, if such establishment and operation are at the time authorized to State banks by the statute law of the State in question by language specifically granting such authority affirmatively and not merely by implication or recognition, and subject to the restrictions as to location imposed by the law of the State on State banks."

While unlimited branch banking is not predominant among the states, approximately 21 states authorize such branching. In addition, 18 states have limited branching laws and 11 states, including Kansas, prohibit branch banking. The explicit prohibition began in Kansas with the passage of H.B. 369 enacted by the Legislature in 1927. The act specified that "The general business of every bank shall be transacted at the place of business specified in its charter or permit, and it shall be unlawful for any bank to establish and operate any branch or branch office or agency or place of business."

Chain Banking. There is little, if any, state law and no federal law regulating chain banking. Certainly, there is no law on the subject in Kansas. Data gathered by the Federal Reserve Bank of Kansas City and presented to the Committee revealed that 68 individuals or families owned or controlled through chain structure 176 of the 619 Kansas banks (28.4 percent).

Detached Auxiliary Banking Service Facilities. In 1967, the Kansas Legislature qualified its earlier prohibition against branch banking to allow a bank to establish and maintain not more than one detached auxiliary teller office to be located within 2,600 feet of the premises specified as its place of business. Additionally, 1967 H.B. 1474 placed limitations upon services to be rendered at detached facilities, e.g., to receiving deposits, cashing checks, issuing exchange, and receiving payments payable at the bank.

Amendments were proposed to those detached facility statutes by a Special Interim Committee on Commercial and Financial Institutions in 1972. The 1973 Legislature generally concurred with the interim committee recommendations and enacted H.B. 1017. That bill authorized a bank to establish and maintain not more than three detached auxiliary banking services facilities within the same corporate or unincorporated limits as the chartered bank. Rental of safe deposit boxes also was added to the list of services which could be extended at those facilities.

Not all members of the 1972 Special Committee agreed with the conclusions and recommendations made to the 1973 Legislature. A Minority Report was filed which argued that statewide branch banking, multi-bank holding companies, or both structures should be allowed in Kansas.

Electronic Funds Transfer (EFT). Legislation permitting financial institutions (banks and savings and loan associations) to engage in EFT transactions was passed by the Kansas Legislature in 1975. In that year, S.B. 515 and S.B. 519 created new laws to authorize banks and savings and loan associations to conduct financial transactions through remote service units and to make it clear that such units are not to be considered branch banks, or branch offices, agencies or places of business, or detached auxiliary service facilities.

Upon passage of the basic EFT laws in 1975, no additional legislation was introduced until 1982. In that session, the Legislature allowed, through passage of S.B. 537, Kansas chartered savings and loan associations to engage in interstate financial transactions by means of remote service units. Additionally, the bill allowed foreign savings and loan associations to deploy remote service units in Kansas provided there was reciprocal legislation in the other states.

Finally, while Kansas banks did not request similar interstate and reciprocal statutes, apparently the Kansas Bankers Association Committee on EFT is studying the availability of EFT services being offered by competing regional, national, and international providers.

Holding Companies - National Developments. Bank holding companies first appeared in the United States about 1900 and were similar to existing chain banks formed in the late 1800s. Both chain banking and bank holding companies provided a means for controlling several banks. In the early decades of the 20th Century, the Federal Reserve was little concerned with the ownership structure of banks — corporate or individual — and simply reported their holdings under a "multiple systems" heading. In 1929, for example, multiple systems controlled 2,103 banks or 8 percent of all U.S. banks and had 3,518 offices, or 12 percent of all U.S. bank offices.

Regulation of bank holding companies developed gradually and covered the period from 1933 through 1970. The Banking Act of 1933, among other things, required a holding company wanting to vote its stock in a bank to allow the Federal Reserve to examine the company's affiliated banks. While the Act did not regulate the formation or expansion of holding companies, it did serve notice that Congress would watch the growth and concentration of financial resources through holding company systems.

Control of the formation and expansion of bank holding companies came with passage of the Bank Holding Company Act of 1956. That Act placed all bank corporations owning or controlling 25 percent or more of the voting shares of two or more banks under the scrutiny of the Federal Reserve; prohibited multi-bank holding companies from acquiring a bank in another state (the Douglas Amendment); permitted states to regulate bank holding company activities within their borders; and restricted services provided by affiliated companies.

Amendments to the Bank Holding Company Act followed in 1966 and 1970 with the changes made in the latter year being of greatest significance. In 1970, federal legislation ended the exemption of one-bank holding companies from regulation and established two tests to determine which activities of a bank holding company are permissible: (1) the activity must be so closely related to banking as to be a proper incident thereto; and (2) the activity must be expected to produce public benefits.

Using the authority to regulate bank holding companies conferred in the 1956 Bank Holding Company Act, 19 states, District of Columbia, and Guam place no limitation on corporate acquisition of bank stock; 16 states require the approval of a state regulator; and 18 states, including Kansas, place restrictions on such acquisitions.

Holding Companies - Kansas. Prior to 1957, Kansas did not prohibit multi-bank holding companies. Perhaps the Legislature was persuaded by the federal congressional activity that holding companies needed state regulation as well as federal supervision, for in that year S.B. 334, "An Act prohibiting bank holding companies from owning, operating or directing banks within the state of Kansas," was enacted. By implication, however, one-bank holding companies are not regulated or controlled by the state. A bank holding company is defined as a company which owns or controls 25 percent of the voting shares of two or more banks; hence the exemption of one-bank holding companies. At the end of 1975, approximately 175 one-bank holding companies had been approved by the Federal Reserve and were in operation in Kansas. That number continues to grow. By mid-July, 1982, Federal Reserve Bank data showed 371 of the 619 banks in Kansas were held by one-bank holding companies (60 percent).

Summary of Federal Legislation

During the last 18 months, various committees of the United States Senate and the House of Representatives held hearings on the condition of institutions within the financial system and on the increasing competition among depository institutions and between those institutions and nondepository financial institutions. Generally, it was the activities of these committees which the Special Interim Committee on Commercial and Financial Institutions was charged to monitor.

Summary of P.L. 97-320, The Garn-St Germain Depository Institutions Act of 1982

On October 15, 1982, President Reagan signed the Garn-St Germain Depository Institutions Act of 1982. Among other purposes, the bill was designed:

> "To provide flexibility to the Federal Deposit Insurance Corporation [FDIC], the Federal Savings and Loan Insurance Corporation [FSLIC], and the Federal supervisory agencies to deal with financially distressed depository institutions, to enhance the competitiveness of depository institutions, to expand the range of services provided by such institutions, and to protect depositors and creditors of such institutions. . . ."

Generally, each of these stated purposes is covered by a separate title within the law. The following summary is intended to set out the major provisions of the new law as they were known to the Committee in November.

Title I, the Deposit Insurance Flexibility Act, expands the authority of the FDIC, FSLIC, and the National Credit Union Administration (NCUA) to assist financially troubled institutions. The law allows the FDIC and the FSLIC to assist banks and savings and loans directly or through merger. Direct assistance may be given to prevent the closing of an institution, to restore a closed institution to normal operation, or to lessen the risk to the Corporations caused by the instability of a number of insured institutions or the instability of insured institutions possessing significant financial resources. The forms of assistance include assumption of liabilities, deposits, contributions, and purchases of securities.

Regarding mergers, the FDIC and FSLIC may authorize such transactions based upon the following priorities: between institutions of the same type within the same state; between institutions of the same type in different states; between institutions of different types in the same state; and between institutions of different types in different states. Whenever the emergency acquisition authority is to be exercised by the Corporations, time must be given for the appropriate state regulator to object to the proposed action; however, a unanimous vote of the board of directors of the Corporations will override any state objection.

The NCUA Board is authorized to assist a credit union merger between two federally insured credit unions if: one of the credit unions is insolvent or in danger of insolvency; an emergency requiring expeditious action exists; no alternatives to a merger are available; and the public interest would best be served by such a merger. The Board's authority to merge credit unions is not restricted by a field of membership (common bond) or geographic area. As in the case of emergency actions proposed by the FDIC and FSLIC for state chartered institutions, the NCUA Board must obtain the approval of the state credit union administrator prior to invoking emergency procedures; however, a unanimous vote of the Board will override any state objection.

Finally, the emergency powers granted to the FDIC, the FSLIC, and the NCUA are sunsetted three years after the enactment of the Depository Insurance Flexibility Act.

Title II, the Net Worth Certificate Act, provides the mechanism whereby the FDIC and FSLIC may extend direct assistance to troubled institutions under their supervision. Particularly, the Corporations are authorized to purchase from their respective institutions capital instruments to be known as net worth certificates. In effect, qualified federally insured institutions exchange their own capital instruments for promissory notes issued by the federal insurance agencies. To be eligible for the program, an institution must, among other things: have a net worth equal to or less than 3 percent of its assets; have incurred losses during the two previous quarters; agree to comply with all program conditions imposed by the Corporations; and have a net worth of not less than one-half of 1 percent of assets after receipt of assistance. The Act makes it clear that state laws which limit the authority of institutions to take part in the program, to issue and deal in such certificates, or to continue operating because of the level of

the institution's net worth, "shall not apply to any qualified institution which the Corporation has approved. . . ." In addition, institutions holding net worth certificates "shall not be liable for any state or local tax which is determined on the basis of the deposits held by such institution. . . ." Finally, regardless of existing law, net worth certificates "shall be deemed to be net worth for statutory and regulatory purposes."

The provisions of Title II will expire three years after the date of enactment of the Net Worth Certificate Act.

Title III, the Thrift Institutions Restructuring Act, makes major changes in the activities of federally chartered thrift institutions (savings and loan associations and savings banks) in order to "provide such institutions the flexibility necessary to maintain their role of providing credit for housing."

1. Associations are authorized to accept demand accounts (checking accounts) from persons or organizations that have a business, corporate, commercial, or agricultural loan relationship with the association. In effect, associations may offer demand deposits to commercial lending customers.

2. The Act removes the loan to value ratio on residential real property and raises from 20 percent to 40 percent the percentage of assets which can be invested in nonresidential real property.

3. This Title authorizes associations to invest in all securities offered by states and local governments subject to a 10 percent limitation per user.

4. Associations are allowed, for the first time, to make commercial loans with the limitation that such loans cannot, in the aggregate, exceed 5 percent of the assets of the association prior to January 1, 1984 or 10 percent after that date.

5. The interest rate differential between banks and savings and loan associations on deposits or accounts will be phased out on or before January 1, 1984.

6. The Depository Institutions Deregulation Committee (DIDC) must create a new deposit account, not later than 60 days after the date of enactment of this Title, which will be directly equivalent to and competitive with money market mutual funds. The new account will require not more than a $5,000 initial deposit and will permit up to three preauthorized or automatic transfers and three third party transfers per month.

7. Consumer lending authority is expanded from 20 to 30 percent of the assets of an association. Inventory and floor planning financing are also authorized since they are to be considered "loans reasonably incident to" the provision of credit for household purposes.

8. Institutions may invest up to 10 percent of their assets in tangible personal property and in leasing operations.

9. While maintaining the current 5 percent of assets education loan authority, institutions have extended authority to make loans for "the payment of educational expenses."

10. In order for an association to operate a branch outside the state of its home office, the branches must have an asset composition such that they qualify for the benefits of the so called "bad debt deduction" under the Internal Revenue Code.

11. Lenders are authorized to enter into and enforce due-on-sale clauses in real property loans notwithstanding any state constitution, law, or judicial decision.

Title IV relates to national and Federal Reserve member banks and amends various statutes applicable to those banks.

1. The lending limit of a single borrower is raised from 10 to 15 percent for unsecured loans with an additional 10 percent authorized for fully secured loans.

2. The statute establishing borrowing limitations for national banks is repealed.

3. Specific statutory provisions governing the making of real estate loans are repealed and the Comptroller of the Currency is authorized to regulate such activities by orders or rules and regulations.

4. The first $2 million of reservable deposits in all depository institutions is exempt from reserve requirements of the Federal Reserve.

5. Specific statutory limits on loans to officers and insiders are repealed and federal regulators are delegated the task of setting appropriate amounts by regulation.

Title V makes numerous amendments to the Federal Credit Union Act.

1. Boards of directors are authorized to establish the par value of a share which previously has been set by statute at $5.00.

2. Federal credit unions are permitted to make first real estate mortgage loans for more than 30 years.

3. The amount of a loan to a director or to a supervisory or credit committee member which does not require special approval is raised from $5,000 to $10,000.

4. Federal credit unions are allowed to invest in all securities offered by states and local governments subject to a 10 percent limitation per user.

5. The credit committee is made optional for federal credit unions.

Title VI concerns property, casualty, and life insurance activities of bank holding companies. Generally, the law prohibits bank holding companies and their subsidiaries from providing insurance, but six exceptions to the prohibition are enumerated. In addition to the exceptions, insurance agency activities of bank holding companies engaged in or approved by the Federal Reserve on May 1, 1982 are "grandfathered."

Title VII, entitled "Miscellaneous," makes several amendments to other federal acts applicable to financial institutions.

1. The federal Truth in Lending Act is amended to exempt student loans from any disclosure requirements and such loans also are exempted from disclosures required by state laws.

2. Banks, savings and loan associations, and credit unions are allowed to accept public funds in NOW Accounts.

3. The definition section of the FDIC Act is amended to add "industrial bank or similar financial institution" to the definition of "state bank" and "deposit" is further defined to include "thrift certificate, investment certificate, certificate of indebtedness, or other similar name. . . ."

4. The Bank Service Corporation Act is significantly amended to: authorize insured banks to form such corporations, individually or collectively; limit investments in the corporation to not more than 5 percent of the assets of the

bank; allow the corporation to perform certain services for other financial institutions; permit the corporation to perform at any geographical location, other than deposit taking, any service which a bank holding company bank may perform; and let a service corporation provide services to nonstockholders.

Title VIII, the Alternative Mortgage Transaction Parity Act of 1982, authorizes state chartered housing creditors to offer alternative mortgages on the same basis as federally chartered institutions. States have three years to reject the authority granted by the Act.

Committee Activity

In the course of its deliberations, the Special Committee on Commercial and Financial Institutions heard testimony from representatives of the Kansas Bankers Association, Kansas Savings and Loan League, Kansas Credit Union League, Banking Department, Savings and Loan Department, Credit Union Department, and the Attorney General's Office.

The Kansas Association for Economic Growth was represented by John Peterson; Gary Sherrer, Fourth Financial Corporation (Wichita); Robert Brock, Brock Hotel Corporation; Larry Kimbrough, Highland Park State Bank (Topeka); Lynn Anderson, First National Bank of Lawrence; Merle Starr, Starr Bank Consultants (Hutchinson); Phillip Zeller, Jr., First National Bank and Trust (Junction City); Dean Haddock, Guaranty State Bank (Beloit); R. J. Breidenthal, Jr., Security National Bank (Kansas City); Gary Padgett, Citizens National Bank (Greenleaf); W. C. Hartley, Miami County National Bank (Paola); Frank Becker, Becker Corporation (El Dorado); Terrence Scanlon, Wichita; Mike Fleming, Union National Bank (Wichita); and Dexter Davis, former Commissioner of Agriculture for Missouri.

The Kansas Independent Bankers Association was represented by Duane S. "Pete" McGill, McGill and Associates (Topeka); H. Samuel Forrer, Grant County State Bank (Ulysses); John Tincher, Lyndon State Bank; Noel R. Estep, Southwest National Bank (Wichita), Hal Hedlund, Montezuma State Bank; Les Whited, State Bank of Herndon; Kirk McConachie, Andover State Bank; John Suellentrop, Colwich State Bank; C. N. Hoffman, National Bank of America (Salina); Russ Watkins, Fairlawn Plaza State Bank (Topeka); David Fowler, First State Bank (Burlingame); C. Wayne Stearns, President of the Kansas Independent Bankers Association and Chairman/President of Haysville State Bank; John Harvey, Topeka; June Hendrickson, Montezuma; Jim Kramer, Hugoton; and Howard Ward, Kansas Wheat Growers Association.

Through written statements, or survey questionnaire results, the Committee received comments from approximately 350 bankers and bank owners. Through a survey of other states, the Committee had knowledge of bank structure in California, Colorado, Iowa, Nebraska, West Virginia, Missouri, Arkansas, and Illinois. The work products of different consultants, contracted for by the Kansas Association for Economic Growth, were presented to the Committee, including the work of Jack Gaumnitz, University of Kansas Professor of Finance; two marketing faculty members, Dr. Robert H. Ross and Esther L. Headley, Wichita State University; and a marketing and profitability consulting service in Springfield, Missouri, Carner & Associates, Ltd.

The Committee received the comments of Forrest E. Myers and Larry G. Meeker of the Federal Reserve Bank of Kansas City, Missouri, solicited solely for the purpose of obtaining information relevant to Proposal No. 7, but without an opinion on bank structure issues contained in the proposal.

Finally, Dean Graves, Vice-President of the Federal Intermediate Credit Bank, Wichita, and Larry E. Davis, State Director of the Farmer's Home Administration, Topeka, discussed current trends in the financing of agriculture in Kansas. The remarks of each resource person were solicited solely for the purpose of obtaining information relevant to

Proposal No. 7, but without an opinion on bank structure issues contained in the proposal.

From the beginning of the interim study, the Committee was aware that the structure options for financial institutions set out in their charge had more relevance to banks than to either credit unions or savings and loan associations. Representatives of the latter institutions explained that they would monitor the study and cooperate with the Committee in any way possible. Particularly, they volunteered to keep the Committee informed of changes in their operations and procedures arising out of the passage of legislation and adoption of regulation at the federal level. Bank representatives, too, agreed to assist the Committee in understanding any new legislation enacted in the course of the study.

Regarding structure change, however, initial comments of the Kansas Bankers Association (KBA) made it clear that the banking industry was divided by the issue of structure change and that the KBA would maintain a neutral position on that issue throughout the study. Those bankers favoring structure change organized as the Kansas Association for Economic Growth, while those opposed to structure change were represented by the Kansas Independent Bankers Association.

Survey

Early in its study, the Committee developed and circulated among the 619 Kansas banks a survey seeking the opinion of bankers and bank owners on the following propositions:

I. Banking structure in Kansas should be changed by the Legislature to allow for the creation and operation of multi-bank holding companies.

II. Banking structure in Kansas should be changed by the Legislature to allow for statewide branch banking.

III. Banking structure in Kansas should be changed by the Legislature to allow full banking services to be provided in detached auxiliary banking facilities.

Clearly, the survey results verified that Kansas bankers are divided by the issue of structure change. The degree of division, however, varied depending upon the type of change proposed.

Table I is a tabulation of the responses to each proposition summarized under the headings Agree (A), Disagree (D), and No Opinion (NO). Table II is a tabulation of the responses to each proposition arranged by bank asset size and summarized under the headings Strongly Agree (SA), Agree (A), Disagree (D), Strongly Disagree (SD), and No Opinion (NO). (Complete results of the questionnaire are available in the Kansas Legislative Research Department.)

TABLE I

Responses to Each Proposition Summarized Under the Headings Agree (A), Disagree (D) and No Opinion (NO)

Proposition I (Multi-Bank Holding Companies)

Agree	Disagree	No Opinion
132 (39.3)%	197 (58.6)%	7 (2.1)%

Proposition II (Branch Banking)

Agree	Disagree	No Opinion
43 (12.8)%	283 (84.2)%	10 (2.9)%

Proposition III (Detached Facilities)

Agree	Disagree	No Opinion
165 (49.1)%	143 (42.6)%	28 (8.3)%

TABLE II

Tabulation of the Responses to Each Proposition Arranged by Bank Asset Size

Asset Size	Total Banks	Responses	Proposition I SA	A	D	SD	NO	Proposition II SA	A	D	SD	NO	Proposition III SA	A	D	SD	NO
Under $6.5 million	116	63 (50.4)%	4	6	7	45	1	1	2	11	47	[illegible]	5	13	11	26	8
$6.5 to $9.0 million	70	35 (50.0)	4	3	4	23	1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	6	10	7
$9.0 to $12.5 million	81	46 (56.8)	3	12	4	25	2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	4	17	5
$12.5 to $17.5 million	83	36 (43.4)	6	[illegible]	[illegible]	16	0	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	13	2
$17.5 to $23.5 million	69	37 (53.6)	5	5	[illegible]	19	1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	4	12	[illegible]	10	4
$23.5 to $35.0 million	72	48 (66.7)	15	9	8	14	2	[illegible]	[illegible]	[illegible]	24	[illegible]	18	13	9	8	0
$35.0 to $60.0 million	74	38 (51.4)	21	[illegible]	[illegible]	[illegible]	0	4	4	13	15	[illegible]	[illegible]	[illegible]	5	2	[illegible]
Over $60.0 million	53	33 (62.1)	19	6	[illegible]	[illegible]	0	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	5	0
TOTAL			[illegible]	55	41	166	[illegible]	17	26	76	207	11	85	80	52	91	28

Bank Structure in Other States

The impetus for changing bank structure laws ha building for nearly a decade, not only in Kansas but i other unit banking states as well. The Nebraska Unica Legislature has twice passed legislation authorizing mul holding company activities; one act was declared unco tional and the second was vetoed by the Governor. T Session of the Unicameral Legislature will likely see consideration of the structure issue. Both Illinois an Virginia have enacted multi-bank holding company laws the last two years. Missouri, Iowa, and Colorado all p branching but allow multi-bank holding company str Only California, among the states surveyed by the Com permitted both branching and multi-bank holding com Proponents of structure change also have organiz Arkansas and in Kentucky.

In each of the unit bank states surveyed, banker divided by the structure issue. Traditional state ba associations declared neutral positions, while "progres bankers organized to change existing structure and "ind dent" bankers organized to prevent structure change. In of the unit bank states, one-bank holding companies prevalent and chain banking was common. In each of th banking states, the state legislature was asked to resolv structure problem which seemingly was insoluble within entire industry.

Summary of Testimony

Kansas Association For Economic Growth. Proponent bank structure change in Kansas generally concentrated t efforts in favor of multi-bank holding company authorizat Few proponents favored branch banking legislation and, sinc majority of all respondents in the Committee's survey bankers favored expanded services in detached facilities, li time was spent on that proposition. Businessmen-propone argued that Kansas statutes must be changed so that Kan banks can serve better the needs of bank customers. T multi-bank structure, they said, would allow Kansas ba resources to be combined in such a way that businessmen would not be driven to banks in other states. While they recognized that large out-of-state correspondent banks would still be necessary, such banks would be used less because the Kansas "lead" bank of the holding company could serve in the same capacity as the correspondent. Additionally, noncommercial bank customers would receive a greater number of services provided with greater expertise than can be extended by unit banks since holding company banks would enjoy certain economies of scale.

Several proponents contended that state structure laws should be changed as a step toward deregulation of the banking industry. Banker-proponents pointed out that services traditionally thought of as "bank services" are now being offered by other financial institutions with less regulation and by nonfinancial institutions with little or no regulation. Maintenance of the status quo unit bank structure only perpetuates the inequities since the trend at the federal level is toward greater deregulation which may ultimately overwhelm Kansas bank institutions. Still other proponents indicated that multi-bank holding company legislation would be permissive legislation. No bank would be forced to join or affiliate with a multi-bank holding company; however, any banker operating a large or small bank, and for whatever reason, would at least have an optional ownership structure to consider. Colorado, Texas, New York, California, and Missouri all have strong multi-bank holding companies doing business, the proponents noted, but each of those states also has strong unit banks.

Kansas Independent Bankers Association. Opponents of bank structure change in Kansas argued that the unit banking system is a tested system which has met the Kansas banking needs in the past and is the best system to meet future demands. The needs to be met by bank structure, the opponents contend, are not those of bankers, but are the needs of consumers of bank services. Viewed in that light, bank structure should be designed to protect the public, not to serve the inclinations of the bankers. By maintaining the unit banking structure, the public would be protected: from corporations which care little about bank customers but a great deal about profits; from a corporation which is little

concerned about community development but greatly c
cerned with corporate prosperity; from a corporation w
has power based upon a concentration of financial resour
not upon expertise or performance; and from corporat
whose lending policies are based upon corporate needs, no
requirements of business and agriculture.

In those states where multi-bank holding companies
been allowed, the opponents asserted, services to cust
were neither better nor less expensive than those of
bank after the corporate bank eliminated its competi
undercutting independent banks. They claimed that cor
managers, interested in career development, paid less a
tion to service within the community than did a local
owner. Funds previously invested in the community by
bankers were drained off and sent "upstream" upon impo
of the corporate structure. Loans to small business a
agricultural purposes fell off as the multi-bank ho
company allegedly invested more in its own subsidiaries
urban big businesses. The opponents pointed particular
Missouri as a state where all of these shortcomings of m
bank holding company structure could be observed.

Proponents' Rebuttal. The work of three consultants
presented by the proponents to challenge the claims of
opponents. Regarding consumer satisfaction, Dr. Robert R
and Esther Headley, M.B.A., Wichita State University, su
veyed Chamber of Commerce executives to ascertain t
degree of customer satisfaction with services provided
branches of savings and loan associations as compared to tho
provided by the home office. The majority of respondent
indicated that there was no significant difference in servic
Additionally, the survey found that: the largest institution
generally received a higher evaluation than the small
institutions; and branch associations do a good or average j
of putting money saved by the community back into th
community. The proponents projected that these same resul
would occur if banks were permitted to function within
multi-bank holding company structure.

Professor Jack Gaumnitz, University of Kansas, reviewe
the scholarly literature relating to the significance and impa

of multi-bank holding companies on state and local economies,
on local capital and money markets, and on financial institu-
tions. Briefly, his report indicated that multi-bank holding
companies as compared to unit banks or limited branch banks
generally:

1. do not increase concentration, hence competition is presumably increased;

2. increase net public benefit relative to cost;

3. increase bank safety and soundness while at the same time causing increased lending to customers through loan diversification capabilities;

4. offer expanded financial services to bank customers;

5. do not decrease, and in many cases, increase, the monies available for local lending;

6. overall hold the pricing of services about the same even though varying the pricing of some services considerably; and

7. increase the deposit mix and interest rate paid on time deposits thereby favoring the customer.

In general, he concluded that there is substantial research showing that the fears of the opponents of multi-bank holding companies are unfounded and cannot be substantiated to any reasonable degree.

Finally, William Carner, President of Carner and Associates, Ltd. of Springfield, Missouri, reported various facts and statistics on the activities of multi-bank holding companies in Missouri. In summary, he found: multi-bank holding companies excelling over independent banks in the area of consumer loans and deposit services; multi-bank holding

companies banks gaining against independent banks in loan farmers; multi-bank holding companies meeting local lend needs; and no significant concentration of resources in mul bank holding companies.

Opponents' Rebuttal. The opponents of multi- holding companies reiterated that the purported succes such companies in other states is no justification for chan Kansas law. They reemphasized the point that bank struct exists for consumers and only a few consumers had appe before the Committee requesting a structure change. opponents concluded that the clamor for change came ma from big banks wanting to become bigger and believing bigger was better. In that regard, opponents pointed to re failures of aggressive banks and losses by the largest ban the country as evidence that the bigger are not necessa better.

Reminding the Committee that "you can do anyt with figures," the opponents disputed the numbers and pro tions presented by the proponents and provided data of t own. They reported that, for the period 1970-1980, empl ment in Kansas increased at a higher rate than in Misso that unemployment ran at a lower rate in Kansas, and t personal income rose by a greater percentage in Kans Moreover, they wondered, if life was so prosperous in t multi-bank holding company state of Missouri, why has recent study supposedly disclosed that 219 major firms l that state to take up residence in Kansas and why have many executives of Missouri corporations, including top exec tives of multi-bank holding companies, apparently taken residence in Kansas?

Having demonstrated what they considered to be th successes of the unit bank system, the opponents conclude that the only changes that would be desirable in the presen structure would be those which gave added strength to the independent banking system.

Conclusions and Recommendations

Based upon information presented, the Special Committee on Commercial and Financial Institutions concludes that:

1. Permissive legislation to allow multi-bank holding companies in Kansas would provide for increased utilization of financial resources, such utilization could significantly enhance and support economic growth and development in our state.

2. Permissive legislation to allow multi-bank holding companies would provide Kansas consumers enhancements to their existing bank services and more services because of a greater consumer base of demand and greater expertise of multi-bank holding companies.

3. Permissive legislation to allow multi-bank holding companies would provide a more competitive environment of financial services which in turn would benefit the consumer and the support and development of Kansas business.

4. Permissive legislation to allow multi-bank holding companies would provide greater parity between Kansas banks and other financial institutions and corporations offering financial services. With recent developments in federal legislation and deregulation, a continuance of multi-bank holding company restrictive legislation would place an unfair and unnecessary burden on the banking industry.

5. Permissive legislation to allow multi-bank holding companies would recognize by statute the type of bank structure which already exists through the ability of individuals and one-bank holding companies to own or control unlimited

numbers of banks either separately or through voting stock arrangements with other one-bank holding companies or individuals.

To implement the Committee's conclusions, a majority of the members recommend passage of H.B. 2001 in the 198[illegible] Session of the Legislature. The bill repeals the existing prohibition against multi-bank holding company structure. Additionally, the Committee recommends that the appropriate standing committees consider the need for limiting the deposits of a multi-bank holding company to a certain percentage of the total amount of deposits in all Kansas financial institutions as of a specified date. However, the Committee believes that some exemption for emergency situations should be provided if a need is found for limiting the deposit growth of holding companies.

Having decided in favor of the multi-bank holding company structure, the Committee recommends that the Legislature take no action regarding branch banking and electronic funds transfer systems.

Finally, regarding P.L. 97-320, the Special Committee recommends that the appropriate standing committees address the various conformity issues raised by the passage of that act. Particularly, the Committee calls to the attention of those committees the special orders issued by the Kansas Savings and Loan Commissioner to reconcile state association powers with certain powers granted federally chartered associations. Some time may also be needed during the 1982 Session for representatives of the bankers association and the credit union association to discuss the impact of P.L. 97-320 on their institutions.

Respectfully submitted,

November 30, 1982

Rep. Mike Meacham,
Chairperson
Special Committee on Commercial and Financial Institutions

Sen. Neil Arasmith,
Vice-Chairperson
Sen. John Chandler*
Sen. Richard Gannon
Sen. Gerald Karr
Sen. Edward Reilly
Sen. Merrill Werts

Rep. James Holderman
Rep. Charles Laird
Rep. James Lowther
Rep. John L. Myers
Rep. Bob Ott
Rep. Dennis Spaniol

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* The Special Committee on Commercial and Financial Institutions acknowledges the work of Senator John Chandler who served on the Committee until his death in October, 1982.

MINORITY REPORT

The facts and the summary of Committee activity leading up to the conclusions and recommendations of the Committee are not disputed. However, it should be pointed out:

1. The survey commissioned by this Committee among Kansas bankers concerning structure preference indicates a substantial majority do not desire structure changes to branch banking or multi-bank holding companies.

2. Consumers of banking services have not appeared before this Committee in support of such changes; and there is

no public outcry for these changes. One should assume that the Kansas bank consumer would know if his hometown bank is not able to service his or her banking needs.

3. There has been no valid testimony given on the important issues over which proponent and opponent witnesses differed and whether these issues would be enhanced by the advent of multi-bank holding companies, issues such as financial resource concentration; bank competition; availability, type and cost of bank services; availability and cost of loans; ramifications of local versus interstate ownership of bank holding companies; and the type and cost of support such holding companies would give agriculture and small business. Since we are not persuaded multi-bank holding companies would have a positive benefit and influence on these issues, the change to such bank structure, at this time, is unwarranted.

Respectfully submitted,

Sen. Neil H. Arasmith
Rep. Charles F. Laird

Session of 1983

House Bill No. 2001

By Special Committee on Commercial and Financial Institutions

Re Proposal No. 7

12-20

AN ACT relating to bank holding companies; amending K.S.A. 17-1252 and repealing the existing section; and also repealing K.S.A. 9-504, 9-505, 9-505a, 9-505b and 9-505c.

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

Section 1. K.S.A. 17-1252 is hereby amended to read as follows: 17-1252. When used in this act, unless the context otherwise requires:

(a) "Commissioner" means the securities commissioner of Kansas, appointed as provided in K.S.A. 17-1270, and amendments thereto.

(b) "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities. "Agent" does not include an individual who represents an issuer only in transactions in securities exempted by subsections (a), (b), (c), (f), (i), (j), (l) or (p) of K.S.A. 17-1261, and amendments thereto. A partner, officer or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if such person otherwise comes within this definition.

(c) "Broker-dealer" means any person engaged in the business of purchasing, offering for sale or selling securities for the account of others or for such person's own account; but the term shall not include an agent, issuer, bank, bank holding company, ~~defined in K.S.A. 9-504,~~ savings institution, insurance company or a person who effects transactions in this state exclusively with the issuer of the securities involved in the transactions or with any person to whom a sale is exempt under subsection (f) of K.S.A. 17-1262, *and amendments thereto.*