

Approved 2-23-84
Date

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS

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

3:30 ~~a.m.~~/p.m. on February 21, 1984 in room 527-S of the Capitol.

All members were present except: Rep. Ivan Sand, excused

Committee staff present: Bill Wolff
Bruce Kinzie
Mitch Lousch
Virginia Conard

Conferees appearing before the committee: Rep. Jim Lowther
Wylie Price, President, Lyon County State Bank, Emporia
Noel Estep, President, Southwest National Bank, Wichita,
KIBA
Russ Watkins, President of KIBA and President of
Fairlawn Plaza Bank, Topeka

Chairman Dyck opened the meeting and called on Rep. Jim Lowther, the first conferee and the first proponent testifying on HB2041. In his testimony (Attachment I), Rep. Lowther also pointed out the position of the Comptroller in a letter written by the Comptroller as can be seen as Attachment II.

Following Rep. Lowther's testimony, Wylie Price stated that his Lyon County State Bank opened their newest drive up facility in 1979. "Because of the changing business climate in our area, people do not understand when they come to this facility that they cannot get a loan." Mr. Price said he would like the committee to know that he and the other bankers who were with him today from Emporia support the legislation (HB2041) which would make it possible to make loans in the detached facilities.

After questions were directed to Rep. Lowther and Mr. Price, Chairman Dyck called on first opponent Noel Estep to give his testimony. (See Attachment III). He was followed by Russ Watkins who testified against HB2041. (See Attachment IV). A question and answer period followed these two testimonies.

Chairman Dyck introduced Virginia Thrall and Dave Nichols, two visitors from the Chicago office of the Midwestern Conference of the Council of State Governments.

Staff member Bill Wolff gave a briefing on SB227.

Rep. Bob Ott moved that SB227 be favorably passed out of committee. Rep. David Miller seconded the motion. Motion carried. Representator Dean Shelor was recorded as voting against the motion.

On HB2777 Chairman Dyck explained the proposed amendments. (See Attachment V).

Rep. David Miller moved that the amendments to HB2777 (with the change from striking "nontechnical language and" to striking "in nontechnical language and) be adopted. Rep. Bob Ott seconded. Motion carried. Amendments approved as attached. (Attachment VI)

Rep. David Miller moved that HB2777 as amended be recommended favorably for passage. Rep. Ken Francisco seconded the motion. Motion carried.

Rep. Kenneth King moved that the minutes of the Feb. 16, 1984, be approved. Rep. Dick Eckert seconded the motion. Motion carried.

The meeting adjourned at 4:55 p.m.

The next meeting will be Thursday, February 23, 1984.

DATE

2-21-84

GUEST REGISTER

HOUSE

COMMERCIAL & FINANCIAL INSTITUTIONS

NAME	ORGANIZATION	ADDRESS
Lucian Brauner	Legis. Intern	Topeka
HAROLD STONES	KBA	Topeka
Joe Stout	Cit 9/13	Emporia
Dybi Pinn	Emp. Co. St. Bank	"
William	Emporia St. Bk & Tr Co	"
Carl Paulstrom	Banking Dept	Topeka
John Spurgeon	Budget	Lawrence
Marvin Umholtz	KCMC	Topeka
Paul Fisher	KV ST. BK & T	Topeka
Pete McMill	KIBA	Topeka
Sandra Speck	KIBA	"
Noel S. Estep	KIBA	Wichita
Sue Anderson	KIBA	Carbondale
Dee J. Estep	KIBA	Wichita, KS.
Jim Masz	KBA	Topeka
John Peterson	KAEG	Topeka
Fred Mertz	Ricardo Enterprises	LA
Ron Smith	KIBA	Topeka
Jan Turner	KLSI	Topeka
Ken Walth	KIBA	Topeka

A Hachment

STATE OF KANSAS

JAMES E. LOWTHER
REPRESENTATIVE, SIXTEENTH DISTRICT
LYON COUNTY
1549 BERKELEY ROAD
EMPORIA, KANSAS 66801



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE-CHAIRMAN EDUCATION
MEMBER WAYS AND MEANS
CHAIRMAN, APPROPRIATIONS SUB-
COMMITTEE
ASSESSMENT AND TAXATION
LEGISLATIVE EDUCATIONAL PLANNING
COMMITTEE

In Support of Loan in Detached Facilities
HB 2041

Rep. Jim Lowther
February 20, 1984

Thank you, Mr. Chairman and members of the Committee. First, I would like to give you some background information.

In the 1982 Interim, 619 questionnaires were sent to all Kansas bankowners. One question proposed was: should banking structure in Kansas be changed by the Legislature to allow full banking services in detached auxiliary banking facilities. A total of 336 questionnaires were returned (54.3%). Here are the results:

<u>AGREE</u>	<u>DISAGREE</u>	<u>No Opinion</u>
165 (49.1%)	143 (42.6%)	28 (8.3%)

Of those agreeing to "full services", 101 (30%) were from banks with \$17.5 million in assets and above. This represented 61% of the 165 who favored change in the law. Of those disagreeing, 111 (33.0%) were owners of banks under \$17.5 million in assets. This was 77.6% of those who opposed change in the law.

Thus it appears it was the owners of smaller banks who saw no need to permit "full services" in detached facilities. Of those 143 respondents who answered in the negative, only eleven had detached facilities and only two had off premises ATMs. So, most opponents apparently wanted no change simply because they were concerned about

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competition, or because of their small size they saw little need.

The map divides Kansas into the ⁶ 6 Kansas Bankers Association regions. Here are the responses by region:

TABLE I

	<u>AGREE</u>	<u>DISAGREE</u>	<u>No Opinion</u>
Region 1	28 (68.3%)	9 (22.0%)	4 (9.8%)
Region 2	23 (48.0%)	21 (44.2%)	3 (6.4%)
Region 3	28 (51.0%)	20 (36.4%)	7 (12.7%)
Region 4	31 (56.4%)	19 (34.5%)	5 (9.1%)
Region 5	24 (34.3%)	40 (51.1%)	6 (8.6%)
Region 6	31 (45.6%)	34 (50.0%)	3 (4.4%)

A majority of the banks in regions 1, 3 and 4 saw a need for "full service" and in region 2 more favored than opposed it. Only in the western regions 5 and 6 did the majority oppose (22% of the total and 51.7% of those disagreeing).

Bank owners in smaller markets are not faced with the complex competitive market situations found in larger markets and so apparently saw little reason to utilize detached facilities at all and little need for expanded services in them to better serve customers. By contrast, in larger markets and growing markets most bank owners support a change to full service or at least for loan services.

In speaking today on the issue of permitting Kansas banks to make loans in detached auxiliary facilities, I want to say that, even though the financial markets place has a new look today compared to the situation several years ago, the need for the change in the law is as great as ever.

In fact, for some banks in certain markets in Kansas the need for

this capability to better compete is greater than ever. Credit is being made available to Kansans by out of state lenders through the mail. Retail chains and automobile manufacturers are using credit to stimulate their sales (as a sales tool). There is more and more point of sale credit available because of this and consumers like the terms and convenience. Out of state institutions are establishing loan production offices within our boundaries. Most of you receive an application each month from some out of state institution offering \$5,000 line credit on some type of credit card.

Further, in the towns and cities of Kansas that have experienced growth, banks have realized the necessity of establishing detached facilities to better serve and better compete. In these markets lenders are in a competitive situation and yet the current law does not allow these facilities to be used for loan production.

Today all banks are looking harder at non-interest income and non-interest expense. Historically the saver subsidized the borrower. No more is this the case as all financial institutions find they must pay more to secure core deposits. In a competitive market for loans this puts a squeeze on the spread between interest paid savers and interest earned on loans. As a result, many traditionally free services now carry a price tag and low cost services have had price increases.

Detached facilities - drive-in banks as customers call them - are a necessity for many banks and thus should be available for use as loan offices. This would make them more cost efficient and give banks a better way to serve their markets. It would help many banks compete with non-bank lenders. While offering customers greater convenience, it could help a bank in coping with this squeeze on interest margins.

Following an Attorney General's opinion, banks have found they have a legal way to skirt the law and make loans in drive-ins and several are doing so now. Mainly this is accomplished by establishing subsidiary corporations in one-bank holding companies.

To give you an example of the situation in the fall of 1982, I have copied a list from the consumer credit commissioner. Note the out of state banks at the top of the list. There is no way to tell for sure, but it can be assumed that most of the "offices" for Kansas banks are in drive-in facilities.

It should be recognized that many banks do not have one-bank holding companies and would prefer not to be required to form one, and then also form a subsidiary finance company just to make loans in detached facilities. And that's another reason for this legislation.

I want to mention the position of the Comptroller of the Currency as presented on July 25, 1978, which states in essence that a national bank cannot be limited by K.S.A. 9-1111 (d) (2). The national bank act must prevail and, in short, a national bank could thus make loans in the "branches". As far as I know, no national bank has challenged Kansas law in this respect and probably none will. It is a grey area, but regardless, Kansas State banks are bound by Kansas statutes.

Last year as I worked at my bank, my desk was in the lobby of our "detached auxiliary facility". I had an excellent view of the new detached facility of the local savings and loan next door. As their customers came and went I wondered how many of them obtained a consumer loan, mortgage loan, commercial loan, or any type loan, without having to drive all the way down town?

When I explained to our customers asking about a loan that this was

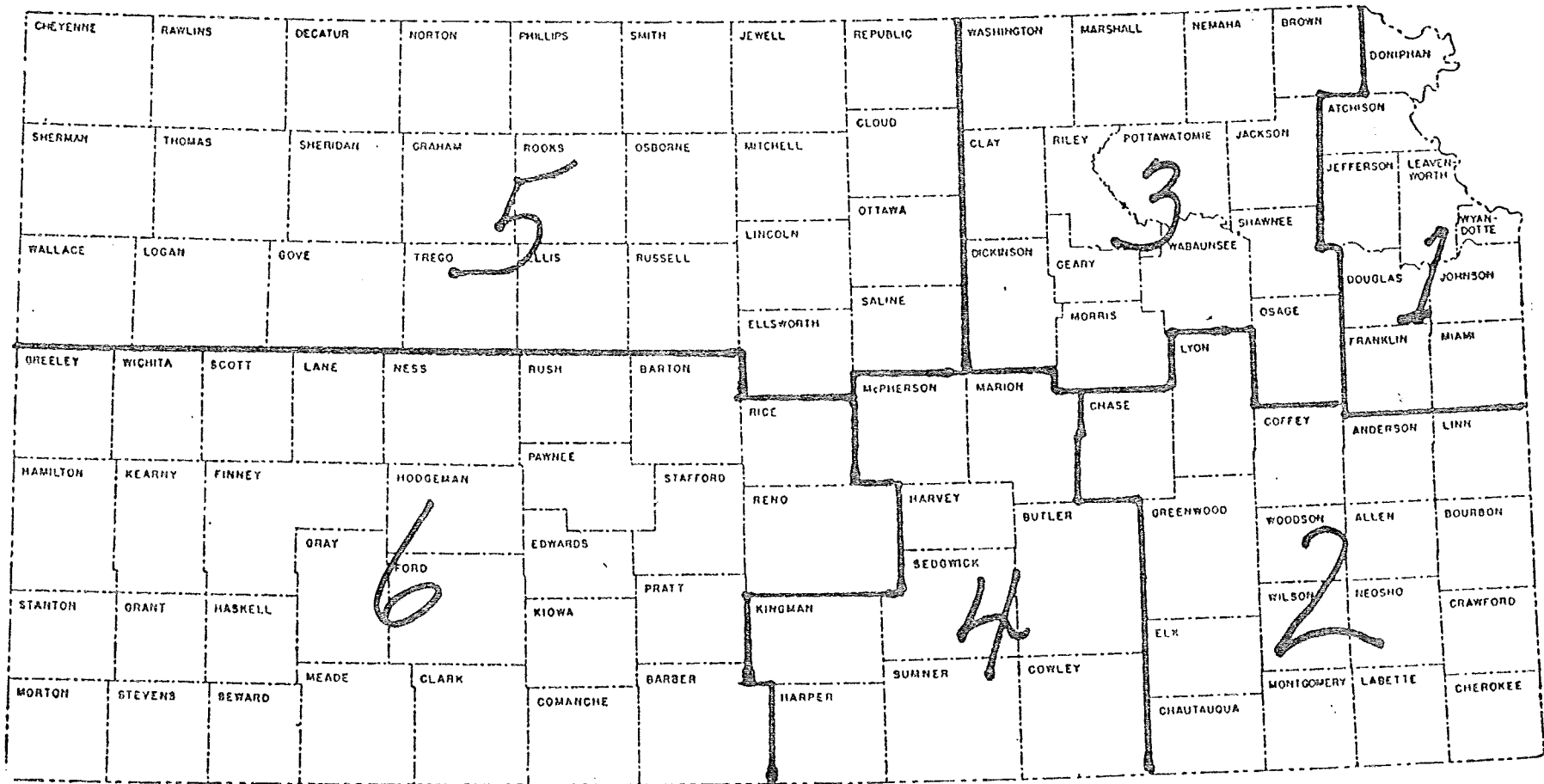
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what they had to do, most just shook their heads in disbelief. You could see it was a real inconvenience.

The time has arrived to grant Kansas banks the added ability to compete by providing their customers the opportunity to obtain loans in detached facilities. It should be an option available for both national and state chartered banks.

I urge your favorable vote on HB 2041 to eliminate one more inequity that many banks find themselves in as they compete in the financial market place.

REGIONS OF THE KANSAS BANKERS ASSOCIATION



<u>Licensee</u>	<u>Number of Offices</u>	<u>Bank Holding Company</u>
Finance One of Kansas, Inc.	4	Manufacturers Hanover Trust
Citicorp Person-To-Person Financial Center, Inc.	2	Citicorp
FinanceAmerica Thrift Corporation	4	BankAmerica Corporation
Security Pacific Finance Money Center, Inc.	14	Security Pacific Corporation
Dial Finance Company of Kansas	7	Northwest Bancorporation (Banco)
United Financial Corporation	4	Fourth National Bank & Trust Co.
United American Financial Corporation	2	United American Bank & Trust Co.
Wichita Financial Corporation	1	Graham-Michaelis Corp. (Wichita State Bank)
Comco Financial Service Centers, Inc.	1	Commerce Financial Corporation (Commerce Bank & Trust - Topeka)
F.N.I.A.	1	Farmers National Bank - Agra
Farmers Enterprises, Inc.	1	Farmers State Bank - Albert
First Place Finance Company	1	First Bank & Trust - Salina
Krey Co. Ltd. dba Key Credit	1	The Peoples Bank - Pratt
Patrons Loan Company	1	Patrons Bank - Olathe
National Financial Corporation	1	NEW Financial Corporation (National Bank of Wichita)
Merchants Finance Company	1	Merchants National Bank - Topeka
Rosedale Finance Company	1	Rosedale State Bank & Trust Co. - Kansas City, Kansas

EXHIBIT A

JUL 25 1978

This is in response to your letter of May 26, 1978, and recent telephone conversation with a member of my staff concerning the effect on a national bank of a state law which purports to restrict banking activities which might be performed at banks' detached facilities to certain enumerated activities, including the rental of safe deposit boxes, receiving of deposits and cashing of checks. The making of loans is not included in the list of permissible activities enumerated in that statute. You have requested written confirmation of the position of the Comptroller of the Currency with regard to the effect of such a restrictive state statute upon the activities of national banks at federally-authorized branch facilities.

Although Section 9-1111 of the Kansas Banking Code, Kan. Stat. § 9-1111 et seq., provides that any bank domiciled in the state may establish and maintain certain "detached auxiliary banking services facilities" (herein referred to as "detached facilities") with the approval of the appropriate regulatory agency, such an office established by a national bank with the approval of the Comptroller shall, nevertheless, constitute a "branch" for the purposes of all applicable federal laws and regulations.

The nomenclature chosen by state legislators to describe such detached facilities does not change the essential definition

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of the term "branch" as defined and used by the National Banking Laws. While holding that the McFadden Act of 1927, as amended (12 U.S.C. § 36) incorporates by reference as applicable to national banks the limitations which state law places on branch banking of state banks, the Supreme Court in First National Bank in Plant City v. Dickinson, 396 U.S. 122 (1969), specifically rejected the contention that state law definitions of what constitutes "branch banking" must control the content of the federal definition of Section 36(f). Though relevant "in defining how, where, and when branch banks may be operated," state legislatures may not define the content of the term "branch" for the purposes of federal law. (Id., at 133-134). What constitutes a branch of a national bank is determined by pertinent federal law which provides that:

The term "branch" shall be held to include any branch bank, branch office, branch agency, additional office or any branch place of business located in any State . . . at which deposits are received or checks paid, or money lent. (12 U.S.C. § 36(f)).

That the Kansas Banking Code purports to restrict the activities which may be performed at detached facilities, by specifically providing that such services shall be

limited to rental of safe deposit boxes, receiving deposits of every kind and nature, cashing checks or orders to pay, issuing exchange, and receiving payments payable at the bank, at detached services facilities . . . (Kan. Stat. § 9-1111(f)(2))

does not alter or amend the minimum content of the term "branch" for federal purposes which, at the least, includes any detached facility at which any of the activities enumerated in 12 U.S.C. § 36(f) may be performed. In my opinion, no state has the legislative authority to classify an office of a national bank which may perform any of the functions enumerated in Section 36(f) as something other than a "branch", since the minimum definition of branch banking contained in the McFadden Act is determined exclusively by federal law in this regard.

The specific federal statutory authority for a national bank to conduct the general business of banking, which includes the making of loans, at any federally-authorized branch facility is contained in 12 U.S.C. § 31, which provides that

The general business of each national banking association shall be transacted in the place specified in its organization certificate and in the branch or branches, if any, established or maintained by it in accordance with the provisions of section 36 of this title.

The National Bank Act must prevail over any conflicting state law in this regard. The doctrine of federal preemption of state law in matters relating to the activities of national banks has been long recognized by the courts where conflict exists between the two statutory schemes. As early as 1896, Justice White, in Davis v. Elmira Savings Bank, 161 U.S. 275 (1896) indicated this principle to be axiomatic, stating that:

National banks are instrumentalities of the Federal government, created for a public purpose, and as such necessarily subject to the paramount authority of the United States. It follows that an attempt by a state to define their duties or control the conduct of their affairs is absolutely void, wherever such attempted exercise of authority expressly conflicts with the laws of the United States, and either frustrates the purpose of the national legislation, or impairs the efficiency of these agencies of the Federal government to discharge the duties for the performance of which they were created. These principles are axiomatic, and are sanctioned by the repeated adjudications of this court.

* * *

If there be no conflict, the two laws can coexist and be harmoniously enforced, but if the conflict arises the law of . . . [the State] is, from the nature of things, inoperative and void as against the dominant authority of the Federal statute.

Lastly, inasmuch as the Comptroller does not issue branch certificates delineating limited powers to branch offices of national banks, the usual branch application procedures and criteria apply to the establishment and operation of offices permitted to be established under applicable state laws.

At your request I have included file copies of two recent staff opinion letters relevant to this issue.

I trust this is responsive to your inquiry.

Very truly yours,

J
John M. Shockey
Chief Counsel

(2) Encls.

Attachment 4

TESTIMONY PRESENTED TO THE
HOUSE COMMERCIAL & FINANCIAL INSTITUTIONS COMMITTEE
REGARDING
HB 2041

BY NOEL R. ESTEP
February 21, 1984

*Atch. III
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DEAR MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE , MY NAME IS NOEL ESTEP AND I AM HERE TODAY REPRESENTING THE KANSAS INDEPENDENT BANKERS ASSOCIATION. I AM PRESIDENT OF THE SOUTHWEST NATIONAL BANK IN WICHITA.

THE ISSUE OF BEING ABLE TO OFFER LOANS IN DETACHED FACILITIES HAS BEEN DISCUSSED AND CONSIDERED IN KANSAS FOR AT LEAST THREE DECADES IN ONE FORM OR ANOTHER. DETACHED FACILITIES THEMSELVES WERE ORIGINALLY ESTABLISHED TO ALLOW BANKS IN DOWNTOWN LOCATIONS TO BUILD A DRIVE-IN FACILITY AWAY FROM THEIR MAIN BUILDING, THUS PROVIDING A CONVENIENT PLACE FOR THEIR MOTORING CUSTOMERS TO MAKE DEPOSITS, CASH CHECKS, AND CONDUCT OTHER TELLER TYPE TRANSACTIONS. THE FACILITY LAW WAS PASSED TO PROVIDE AN ADDITIONAL CONVENIENCE TO BANKING CUSTOMERS...NOT WITH THE INTENTION OF CREATING A FORM OF BRANCH BANKING.

ABOUT 13 YEARS AGO, THE LARGER METROPOLITAN BANKS BEGAN TO ASK THE LEGISLATURE TO LIBERALIZE THE DETACHED FACILITY LAW IN ORDER THAT THEY COULD PLACE FACILITIES AWAY FROM THE HEART OF THE CITY. THEIR ARGUMENT WAS THAT IF THEY WERE TO BE ABLE TO CONTINUE TO SERVE THEIR SUBURBAN CUSTOMERS, THEY NEEDED MORE FACILITIES AT GREATER DISTANCES FROM THE MAIN BANK. MUCH DISCUSSION WAS HELD AT THE TIME AS TO WHETHER THIS WOULD OR WOULD NOT BRING ABOUT BRANCH BANKING. IN RESPONSE TO THIS DISCUSSION, THE KANSAS BANKERS ASSOCIATION ESTABLISHED A

COMPROMISE COMMITTEE OF WHICH I WAS A MEMBER. WE WERE TOLD REPEATEDLY THAT THE REASON FOR THE REQUEST FOR FACILITIES IN A WIDE AREA WAS SOLELY TO PROVIDE MORE CONVENIENCE FOR THE CUSTOMER, THAT IT WAS NOT BRANCH BANKING, AND THAT THERE WOULD BE NO ADDITIONAL REQUESTS ONCE THE LIBERALIZATION HAD BEEN GRANTED. NEARLY EVERY YEAR SINCE THAT COMPROMISE, A BILL TO ALLOW LOANS IN DETACHED FACILITIES HAS BEEN BROUGHT BEFORE THE LEGISLATURE FOR DISCUSSION. TODAY, WE ARE HERE AGAIN, DISCUSSION THAT SAME SUBJECT. THE POSITION OF THE KANSAS INDEPENDENT BANKERS ASSOCIATION HAS NOT CHANGED.

I RESPECTFULLY REQUEST THAT THIS COMMITTEE LOOK BEYOND TO THE EFFECTS OF WHAT THIS BILL WOULD ENACT. IN ESSENCE, HOUSE BILL 2041 AUTHORIZES CITY-WIDE BRANCH BANKING. IT IS FOR THAT REASON THAT THE KANSAS INDEPENDENT BANKERS ASSOCIATION OPPOSES THE BILL. YOU HAVE HAD THIS QUESTION BEFORE YOU FOR THE LAST FIVE YEARS IN SOME FORM OR ANOTHER.

MY BANK IS LOCATED IN DOWNTOWN WICHITA AND RANKS IN THE 25 LARGEST BANKS IN THE STATE. IN OCTOBER, 1980, WE OPENED OUR FIRST DETACHED FACILITY OUTSIDE THE DOWNTOWN AREA (WE HAVE HAD A FACILITY DOWNTOWN SINCE 1960). THIS FACILITY WAS OPENED IN RESPONSE TO NUMEROUS REQUESTS FROM OUR CUSTOMERS FOR A LOCATION AT WHICH THEY COULD MAKE DEPOSITS. TO THE BEST OF MY KNOWLEDGE WE HAVE NOT HAD ONE CUSTOMER ASK US WHY WE COULD NOT MAKE LOANS AT OUR FACILITY LOCATED ON THE WEST SIDE OF WICHITA, YET WE HAVE BEEN CONTINUALLY ASKED BY OUR

CUSTOMERS WHEN WE WILL HAVE AN EAST SIDE FACILITY FOR DEPOSIT PURPOSES. CURRENTLY, SUCH A FACILITY IS UNDER CONSTRUCTION.

THE AVERAGE CONSUMER DOES NOT BUY A CAR MORE THAN ONCE EVERY TWO OR THREE YEARS. THE CONVENIENCE HE REALLY NEEDS IS THE ABILITY TO GET TO THE BANK EARLY, BE ABLE TO MAKE DEPOSITS AND WITHDRAWALS IN A QUICK EFFICIENT MANNER. THE PRESENT DETACHED FACILITY LAW PERMITS THAT.

ACTUALLY, THE REAL ISSUE HERE BEFORE YOU TODAY IS NOT WHETHER YOU WANT TO ALLOW DETACHED FACILITIES TO MAKE LOANS, BUT WHETHER YOU WISH TO AUTHORIZE CITY-WIDE BRANCH BANKING. THAT IS THE QUESTION. THE ABILITY TO MAKE LOANS OR NOT MAKE LOANS IN A DETACHED FACILITY IS THE ONLY THING THAT SEPARATES A DETACHED FACILITY FROM A BRANCH BANK. PERHAPS THAT IS WHY PROPONENTS OF THE BILL DO NOT CALL IT A LEGALIZATION OF BRANCH BANKING....BECAUSE BRANCH BANKING HAS A DIFFERENT CONNOTATION IN MOST PEOPLE'S MINDS THAN DOES A DETACHED FACILITY AT WHICH YOU CAN MAKE LOANS. IF THAT DETACHED FACILITY CAN DO EVERYTHING THAT THE MAIN BANKING OFFICE CAN DO (I.E. OPEN SAVINGS AND CHECKING ACCOUNTS, TAKE DEPOSITS, PROCESS WITHDRAWALS, ACCEPT TRANSFERS BETWEEN CHECKING AND SAVINGS, MAKE LOANS, RENT SAFETY DEPOSIT BOXES, ISSUE CERTIFICATES OF DEPOSIT, CASHIERS CHECKS, AND TRAVELERS CHECKS) THEN WHAT IS THE DIFFERENCE BETWEEN THAT DETACHED FACILITY AND THE MAIN OFFICE. THERE IS NONE. YOU HAVE A BANK BRANCH.

AS WITH OTHER TYPES OF SYNDICATED BANK STRUCTURES, BRANCH BANKING - EVEN WHEN LIMITED - HAS A TENDENCY TO LEAD TO BANKING CONCENTRATION OF WHATEVER THE GEOGRAPHICAL AREA OF OPERATION. FOR EXAMPLE, IN WICHITA TODAY THERE ARE FIFTEEN BANKS. IN THE EARLY 1950'S, THERE WERE ONLY SIX. HAD THOSE SIX EACH HAD THREE FULL SERVICE FACILITY BRANCHES, WE WOULD HAVE HAD TWENTY FOUR BANKING OFFICES. WITH THOSE TWENTY FOUR BANKING OFFICES, HOW MANY OF THE NINE NEW BANKS, STARTED SINCE 1950, WOULD HAVE EVER BEEN CHARTERED? IF YOU PERMIT CITY-WIDE BRANCHING, THE FIFTEEN BANKS IN WICHITA TODAY WOULD AUTOMATICALLY SPREAD TO 60 BANKING OFFICES. HOW MANY CHARTERS WILL BE GRANTED AFTER THAT IN WICHITA? WHEN YOU VIEW THE REQUEST FOR LOANS IN FACILITIES IN THIS MANNER, IT BECOMES RATHER OBVIOUS THAT IT IS NOT A MOVE FOR GREATER COMPETITION, BUT IN FACT A MOVE TO PROVIDE A CLOSED BANKING SYSTEM FOR THE EXISTING BANKS IN THE STATE TO THE EXCLUSION OF THE DEVELOPMENT OF NEW BANKS.

SOME FEEL THAT ALLOWING LOANS IN DETACHED FACILITIES WOULD IMPROVE THE BANKING SERVICE AND CONVENIENCE FOR KANSANS. OTHERS BELIEVE THIS IS NEEDED TO COMPETE EFFECTIVELY WITH SAVINGS AND LOANS AND CREDIT UNIONS WHO HAVE BRANCHING AUTHORITY. NEITHER OF THESE CONTENTIONS IS SUBSTANTIATED. KANSAS BANKS HAVE ALWAYS ENJOYED A LARGER ANNUAL PERCENTAGE GAIN IN DEPOSITS THAN EITHER SAVINGS AND LOANS OR CREDIT UNIONS...EVEN BEFORE BANKS WERE ALLOWED TO PAY THE SAME RATES ON DEPOSITS.

SO WHAT IS HARMFUL ABOUT BRANCH BANKING. OTHER STATES WITH EITHER LIMITED OR STATEWIDE BRANCHING HAVE BEEN SHOWN TO EXPERIENCE A NUMBER OF NEGATIVE SIDE EFFECTS FOR THE CONSUMER.

1. BRANCH BANKING REDUCES COMPETITION. STATES WHICH HAVE BRANCH BANKING HAVE SEEN A CONSISTENT MOVE TO A REDUCTION IN THE NUMBER OF INDIVIDUAL BANKS SERVING THE PEOPLE OF THAT STATE, THUS A REDUCTION OF THE CHOICES THAT THE CUSTOMER HAS FOR OBTAINING HIS BANKING SERVICE.
2. STUDIES HAVE SHOWN THAT IN STATES THAT ALLOW BANK BRANCHES, INTEREST RATES ON LOANS AND SAVINGS ARE NOT AS COMPETITIVE.
3. BRANCH BANKING AIDS THE FORMATION OF BANKING MONOPOLIES WHICH EFFECTIVELY CREATES A CONCENTRATION OF DEPOSITS. AS OF 1980, ACCORDING TO FEDERAL RESERVE REPORTS, THE FIVE LARGEST BRANCH BANKS IN ARIZONA CONTROLLED OVER 94% OF THE STATE'S BANKING DEPOSITS. IN NEVADA AND SOUTH CAROLINA, THE FIVE LARGEST BRANCH BANKING NETWORKS CONTROLLED OVER 96%. WHEN ECONOMIC RESOURCES ARE CONTROLLED IT IS PROPORTIONATE TO AN INCREASE IN POWER OVER A STATE'S ECONOMY.

4. BRANCH BANKING TENDS TO REMOVE LOCAL CREDIT DECISIONS FROM A COMMUNITY. BRANCH BANKS ARE STAFFED BY BRANCH MANAGERS WHO MAKE DECISIONS ACCORDING TO POLICY SET BY THE HOME OFFICE. THE HOME OFFICE IS FAR REMOVED FROM THE COMMUNITY SCENE AND CANNOT KNOW THE SPECIAL CIRCUMSTANCES OF INDIVIDUAL CUSTOMERS. THE USE OF FUNDS IN A LOCAL COMMUNITY IS PRIMARILY DETERMINED BY THE PARENT BANK IN THE LARGER METROPOLITAN CENTERS. IF THEY WANTED TO MAKE AGRICULTURAL LOANS LOCALLY THEY COULD DO SO; HOWEVER, THEY COULD JUST AS EASILY MAKE COMMERCIAL LOANS IN THE METROPOLITAN CENTER. THEY COULD EVEN DECIDE NOT TO MAKE LOANS AT ALL, BUT TO USE THE MONEY FOR SHORT-TERM, HIGH-YIELDING, OVERNIGHT INVESTMENTS, ALL TO THE DETRIMENT OF THE LOCAL COMMUNITY.

THERE HAVE BEEN TWO CASES, THAT I AM AWARE OF, IN WHICH THE PEOPLE OF A STATE WERE ALLOWED TO VOTE ON THE QUESTION OF BRANCH BANKING. IN MISSOURI, THE VOTE WAS NEARLY 3 TO 1 AGAINST BRANCHES AND MOST RECENTLY, IN 1980, A BRANCHING PROPOSITION WAS AGAIN DEFEATED BY 3 TO 1. I WOULD SUBMIT THAT WHEN THE PEOPLE UNDERSTAND THE QUESTION AND ARE GIVEN THE CHOICE, THEY OVERWHELMINGLY SAY "NO" TO BRANCH BANKING. WHAT THEY WANT IS A SYSTEM OF BANKING THAT PROVIDES THEM WITH GOOD, INNOVATIVE, FAIR SERVICE. THE INDEPENDENT BANKING STRUCTURE BESTS DOES THIS JOB.

IN CONCLUSION, I WOULD LIKE TO AGAIN STATE THAT OUR PURPOSE HERE THIS AFTERNOON IS TO APPEAR IN OPPOSITION TO ANY CHANGE IN THE KANSAS BANKING STRUCTURE LAWS WHICH WOULD LEAD TO INCREASED CONCENTRATION OF THE BANKING RESOURCES OF THIS STATE. RATHER THAN PROMOTING INCREASED COMPETITION, BANKING CONCENTRATION LEADS TO REDUCED COMPETITION BY REDUCING THE NUMBER OF INDIVIDUAL BANKING CHOICES FOR CONSUMERS. THIS WOULD NOT BE IN THE BEST INTEREST OF THE PEOPLE OF THE STATE.

OUR PRESENT BANKING SYSTEM HAS BEEN A VIABLE SYSTEM FOR KANSAS FOR OVER 100 YEARS. IT HAS ALLOWED OUR STATE TO GROW AND PROSPER. IN 1983, KANSAS WAS RANKED 10TH NATIONWIDE IN OVERALL BUSINESS CLIMATE, 6TH IN SMALL BUSINESS CLIMATE AND 1ST IN THE NATION IN PERCENT OF TOTAL FARM LOANS HELD IN BANKS AMONG STATES WITH OVER \$1 BILLION IN FARM LOANS. SUCH HIGH RANKINGS SHOW THAT CREDIT NEEDS OF ALL PHASES OF THE ECONOMY ARE BEING MET.

I ASK YOU TO CONSIDER WHERE THE REQUEST FOR LOANS IN FACILITIES IS ORIGINATING. EVEN PROPONENTS OF A REPEAL AGAINST MULTI-BANK HOLDING COMPANIES HAVE REPEATEDLY SAID THEY OPPOSE BRANCH BANKING. THE PEOPLE HAVE NOT ASKED FOR CITY-WIDE BRANCHING. WE FAIL TO SEE POPULAR SUPPORT FOR THIS MEASURE. THEREFORE, I RESPECTFULLY URGE YOU TO VOTE AGAINST HOUSE BILL 2041.

LADIES AND GENTLEMEN, THANK YOU FOR THE OPPORTUNITY TO EXPRESS MY VIEWS AND THOSE OF THE KANSAS INDEPENDENT BANKERS ASSOCIATION. IF I CAN ANSWER ANY QUESTIONS, I WILL BE HAPPY TO DO SO.

STATISTICAL SOURCES:

ABA JOURNAL, January 1981.

"Branching - the More Extensive, the More Expensive: Results of a Bank-Structure Study Drawing on Data from FDIC's Universal-Call-Report and Income-Statement Tapes," by Edward A. Trautz, The Independent Banker, December 1976.

"Developments in Banking Structure, 1970-81"; Federal Reserve Bulletin, February 1982.

POLK'S WORLD BANK DIRECTORY

HB 2041

House Commercial & Financial Institutions Committee

February 21, 1984

Opposition Testimony by

Russ Watkins

Mr. Chairman. Members of the Committee.

I am Russ Watkins, President of the Kansas Independent Bankers Association. We have consistently opposed legislation such as HB 2041, and find no reason to change our position.

Some of the members of this committee have heard this issue for years. I'll try to be brief.

The proponents ask you to impose on the people of Kansas a banking system which, when tested at the polls, has been overwhelmingly rejected.

Kansans have not asked for this legislation; bankers are the chief proponents.

If proponents tell you that we should allow loans in facilities because it's already happening out there, I ask you: why should you reward people and banks who flout the law?

The thrust of our opposition is rooted in the knowledge of what occurs when cartel bank structures like branch banking are in place. This legislation is simply city-wide branch banking. In branch banking

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states, growth of banks comes from the acquisition of more banks, or closing the marketplace to competition.

In unit banking, when an institution has dramatic growth it is because that bank is serving its customers, not because it is out buying other banks or using branch banking to keep out other competitors.

Those differences are fundamental to this discussion, and important.

Branching, in any form, no matter how insignificant, tells people that competition is no longer important in the banking industry.

In 1967, the legislature authorized one facility to be located physically apart from the main bank. In 1973 -- as a "compromise" to a strong push for multibank holding companies -- K.S.A. 9-1111 was amended to allow a total of 3 detached facilities.

Small banks obviously don't need the detached facilities, especially in certain small towns.

So why are we opposed?

Loans in these facilities are the sole remaining service that turns a "service facility" into a "branch bank". Loans are the only services (except trust services) not now allowed at a facility. With loans in facilities you have full blown branch banking within the 3 facilities authorized by 9-1111.

KIBA is opposed to this bill for several reasons.

1. Nothing has changed to alter the reasons for our previous opposition to such legislation.

2. It is bad law and will not help banks with their competitive

fight against savings and loans.

3. It is a city-wide branch banking bill. HB 2041 has nothing to do with providing more banking services to bank customers.

4. It would deny Kansans a choice between types of financial institutions.

5. It has no broad base of support outside the banking industry and is opposed by a significant part of the banking industry itself.

6. It is a part of a program of what a current KIBA member calls "designed - gradualism" toward cartel banking structure.

I'll review each of these points.

First, there has been no change in banking that justifies this change now that didn't justify the change 3 years ago. The bill is here and they are merely seeking a vote on this issue. It also becomes a vehicle for a MBHC amendment later in the process.

Second, proponents argue the bill is consumer oriented. They say that about every bill. There is a cost, however, in the provision of banking services and if you place a loan officer in an existing facility, or build a new facility, those costs must be passed on to the consumer.

Savings and loans recognized this cost -- in the handout article we've passed out. Most of them don't want to do commercial lending in their branches.

Keep in mind that any loan officer in the facility is not going to be the main loan officer that makes the final decision on a loan. A branch loan officer is just that -- an employee. If the final lending decision is going to be made downtown at the main bank, why are you asked to make this decision on this bill?

Third, HB 2041 is nothing more or less than city-wide branch banking. It is not a bank services bill. This bill makes every facility a potential branch. Since banks can put facilities anywhere within its home city, this bill puts into place a set of city-wide networks of branches. These branches of existing banks would capture developing communities so that the possibilities for a new bank charter in that community -- and new competition -- would be closed. Competition is eliminated. This practice is well documented in every state that has branch banking.

How is elimination of competition in the consumer's interest?

Fourth, HB 2041 denies Kansans a choice between types of financial institutions. With de-regulation, the services that a bank can legally offer appears to differ very little from a savings and loan. In states where both banks and savings and loans can branch, one cannot tell much difference between the two types of institutions.

Now, however, Kansans have a choice not only between types of institutions, but also between institutions. They can do business with a branching system or an independent banking system. Independent bankers are not afraid of this competition, and believe unit banking serves Kansans best. They are willing to put this conviction to the test.

Let Kansans decide the issue of branch banking!

In addition, have the proponents offered here today overwhelming proof that Kansas banks cannot compete with Savings and Loans? No. They simply tell you that Savings and Loans can branch, so why can't banks? That is not justification for a large, policy decision.

Fifth, where is the broad base of support from people outside the

the banking industry? ^{They} Are clamoring for this legislation? No.

The reverse is the actual truth.

In 1976, the KBA commissioned a poll which showed Kansans considered banks to be the most convenient of financial institutions -- even though savings and loans could branch at that time. That poll is in the committee minutes of previous loans in facilities bills that have come before this committee.

And lets compare deposit growth. That's where banks and savings and loans directly compete. Until 1967, Kansas savings and loans had more time deposits than banks. Since that time, and during a time when S&Ls put branches all over the state, banks began getting larger shares of the growth in time deposits. Remember that during this time Savings and Loans could pay a quarter percent higher interest on those deposits, too.

What will happen now that that differential on interest no longer applies? We think banks will grow even faster.

Finally, I've enclosed an article from the Kansas City Star indicating that savings and loans have been reluctant to use their commercial lending authority in the large Kansas City markets.

Note what that article says:

== savings and loans in Kansas City are "reluctant" to get into commercial lending;

== commercial lending costs money, say those officials.

== And the reason savings and loans make these commercial loans is that the "average bank in Kansas City doesn't pay any attention to the commercial customer. In other words, S&Ls are filling a lending gap in the Kansas City market -- a market controlled by large multibank

holding companies.

I submit that Kansas banks, with traditionally high loan to deposit ratios, are not going to let any "lending gaps" develop if they use the unit banking system to compete. If there is no lending gap, we need fear nothing from our savings and loans.

Sixth, this bill is just one more step on the road to full blown branch banking. It fits a pattern that exists in other states that now have branching.

We respectfully ask that you report HB 2041 adversely.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 2777

On page 1, in line 26, by striking "nontechnical language and"; by inserting before line 31, a new paragraph to read as follows:

"Any creditor, seller or lessor who fails to comply with this section shall be liable to a consumer who is a party to a written agreement governed by this section in an amount equal to any actual damages sustained plus a penalty of \$50. The total class action penalty against any such creditor, seller or lessor shall not exceed \$10,000 in any class action or series of class actions arising out of the use by a creditor, seller or lessor of an agreement which fails to comply with this section. No action under this section may be brought after both parties to the agreement have fully performed their obligation under such agreement, nor shall any creditor, seller or lessor who attempts in good faith to comply with this section be liable for such penalties.";

Also on page 1, in the title, in line 17, by striking "nontechnical language and";

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