

MINUTES OF THE SENATE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS

The meeting was called to order by Sen. Neil H. Arasmith at
Chairperson

9:00 a.m./~~p.m.~~ on March 23, 1984 in room 529-S of the Capitol.

All members were present except:

Senators Pomeroy and Gannon - Excused

Committee staff present:

Bill Wolff, Legislative Research
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee:

Representative Jim Lowther
Pat Alexander, First National Bank, Lawrence
Noel Estep, Kansas Independent Bankers Association
Russ Watkins, Kansas Independent Bankers Association
Pete McGill, Kansas Independent Bankers Association

The minutes of March 22 were approved.

The hearing began on HB 2041 dealing with allowing loans to be made at detached banking facilities. Representative Jim Lowther gave his testimony in support of the bill. (See Attachment I.)

Sen. McCray asked if the bill would change the current mileage limitations and if national banks have this limitation. Rep. Lowther answered that the bill would make no changes in the limitations and that national banks do have this limitation.

The chairman inquired as to how many banks have gone the route of consumer loans licensing. Rep. Lowther said that he had no current figures on this, but the figures he has from the fall of 1982 suggest that there is a need for this in certain markets.

Sen. Karr asked how many Kansas banks have detached facilities. Rep. Lowther said 145 of 620 have drive-in facilities which indicates that the bulk of the banks do not have drive-in facilities.

Pat Alexander of the First National Bank of Lawrence testified in support of HB 2041. He gave the three reasons for his support as follows: (1) It is a customer convenience which allows the customer to get a loan at the same facility where he does his banking, thus, saving time and travel. (2) It allows better utilization of bank facilities built to serve customers and also generates income to reduce the bank's overhead to operate these facilities which allows them to compete with other financial institutions. (3) It will create employment opportunities. His bank would be able to offer immediately two additional jobs to young persons just beginning a career in banking to facilitate making loans. His testimony concluded those testifying in support of the bill.

Noel Estep of the Kansas Independent Bankers Association gave testimony in opposition to HB 2041. (See Attachment II.)

Sen. Reilly inquired as to how many applications are pending for new state banks in reference to Mr. Estep's testimony in which he stated that if the bill were passed, no new charters would be requested. Mr. Estep replied that he had no statistics regarding the number of applications pending.

Sen. Werts asked Mr. Estep to explain an apparent incongruity between his statements that there is no demand on the part of consumers for this service but then described the bad things which would occur if the service is offered. Mr. Estep responded that if city-wide banking is established, it will be used in the future which will lead to an economic concentration which is bad for the state.

Russ Watkins of the Kansas Independent Bankers Association followed with testimony in opposition to HB 2041. (See Attachment III.) Upon conclusion of his testimony,

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS,
room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on March 23, 1984.

he said, in reference to Rep. Lowther's quote concerning the Comptroller of Currency's opinion, that it has been ruled in Oklahoma that it is not within the authority of the Comptroller to give that opinion.

In reference to page three of Mr. Watkins' written testimony concerning branch loan officers not making the final decision on a loan but rather it being made by the home bank, Sen. Reilly asked what the limitation would be for loan officers in branch banks. Mr. Watkins said that it would depend on that individual officer's experience. He added that his point was that over-all the final decision and policy will be set at the home bank, and the loan officer will have to report back to the home bank regardless of his experience.

At this time the chairman said that Carl Sandstrom of the Banking Commissioner's office was present and could answer Sen. Reilly's inquiry regarding the number of new applications for state chartered banks. Mr. Sandstrom said that there have been no applications for state banks since 1980 or 1981. All of the applications have been for national banks due to the Comptroller's decision.

Pete McGill, representing the Independent Bankers Association, told the committee that in the early 1960's a request for the establishment of other facilities for banks was allowed with the understanding that there would be no other requests. But in the 1970's a request was granted that three facilities could be established with the understanding that no further requests were to be made. Now in the 1980's this request has come up for city-wide branch banking, and he feels that this is the first step to statewide branch banking. The large facilities built in the 1970's indicate that the banks built them with the intention of using them for branch banking later.

There being no further time, the chairman announced that committee action on the bill would take place on Monday, March 26.

The meeting was adjourned..

SENATE COMMITTEE

ON

COMMERCIAL AND FINANCIAL INSTITUTIONS

OBSERVERS
(Please print)

DATE NAME ADDRESS REPRESENTING

DATE	NAME	ADDRESS	REPRESENTING
3-23-84	Marvin Umholz	Topeka	KCUK
	TJ Wilber	"	KLSI
	L. Wyke Price	Emporia	KAFG
	Howard G. Eunkel	Emporia	
	James O. Myers	Emporia	
	Joe Stout	Emporia	Citizen 7/B
	John Peterman	Topeka	KAFG
	John Spurgeon	Lawrence	Budget
	Janel Wright	Topeka	KCUK
	Tom Smith	Topeka	KIBA
	Ken Wale	Topeka	KIBA
	P. L. McSill	Topeka	KIBA
	Admon Chandler	Topeka	KBA
	Harold Stones	Topeka	KBA
	Jim Mays	"	KBA
	Quinn Young	Topeka	Bank Dept.
	Carl Anderson	"	"
	Jay Scott	Lawrence	Intern/REP ^{12th}
	Phil Louch		Intern / Rep. Harold Dick
	Roger Traude	Topeka	

JAMES LOWTHER
 REPRESENTATIVE FIFTEENTH DISTRICT
 LYON COUNTY
 1549 BERKELEY ROAD
 EMPORIA, KANSAS 66801



EMPIRA

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

HOUSE OF
 REPRESENTATIVES

Testimony to
 Senate Commercial & Financial Institutions Committee
 on House Bill 2041
 From Representative Jim Lowther
 March 23, 1984

In speaking today on the issue of permitting Kansas banks to make loans in detached auxiliary facilities, I want to emphasize that even though the financial market place has a new and different 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 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 chain stores and automobile manufacturers are using credit to stimulate sales - as a sales tool. There is more and more point of sale credit available and consumers like the 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 a line of credit on some type of credit card.

Further, in 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 drive-in facilities to be used for loan production.

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 will help many banks compete with non-bank lenders. While offering customers greater convenience, it helps a bank in coping with the squeeze on interest margins.

Bank owners in smaller markets are not faced with the complex competitive situations found in larger markets and so apparently have seen little reason to utilize detached facilities at all, and little need for expanded services in them to better serve customers. By contrast, in larger towns and growing markets most bank owners support a change to be able to offer loan services.

Attachment I

Following an Attorney General's opinion banks have found they have a way to circumvent Kansas 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. 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, to form a subsidiary finance company just in order to make loans in detached facilities. That is another reason for this legislation.

Just as important is the position of the comptroller of the currency as presented on July 25, 1978 which still is the current position. This states in essence that a national bank cannot be limited by KSA 9-1111 (d) (2)--the National Bank Act must prevail. A national bank could thus make loans in their drive-in facilities. I have heard this practice may have begun and, if it would become prevalent, it would place state banks at a distinct disadvantage. Thus, HB 2041 could be considered a conformity bill to benefit the state banks in Kansas.

Last year as I worked at my desk in the lobby of our drive-in bank I had an excellent view of the new detached facility of the savings and loan next door. As their customers came and went I wondered just how many of them were obtaining consumer loans, mortgage loans, commercial loans and other types of loans?

When I explain to our customers asking about a loan that they must drive all the way downtown to apply, they shake their heads in disbelief. They can't understand it. It is obviously a real inconvenience and they do not like it.

The time has arrived to grant Kansas Banks the option to compete by providing their customers an 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 today's financial market.

EXHIBIT B

Comptroller of the Currency
Administrator of National Banks

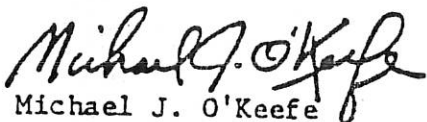
Tenth National Bank Region
911 Main Street, Suite 2616
Kansas City, Missouri 64105

October 15, 1982

Pursuant to our telephone conversation this date, enclosed is copy of a letter which discusses K.S.A. §9-1111(d)(2), which purports to restrict the banking activities which might be performed at a national bank's detached facility (branch).

You will note the letter carries a July 25, 1978 date. It, nevertheless, still represents the position of the Comptroller's Office.

Very truly yours,



Michael J. O'Keefe
Regional Counsel
Tenth National Bank Region

Enclosure

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

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(c)(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/S
John M. Shockley
Chief Counsel

(2) Encls.

TESTIMONY PRESENTED TO THE
SENATE COMMERCIAL AND FINANCIAL INSTITUTIONS COMMITTEE
REGARDING HOUSE BILL 2041

NOEL R. ESTEP

MARCH 23, 1984

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

MY NAME IS NOEL ESTEP. I AM PRESIDENT OF THE SOUTHWEST NATIONAL BANK IN WICHITA, AND I APPEAR HERE TODAY REPRESENTING THE KANSAS INDEPENDENT BANKERS ASSOCIATION IN OPPOSITION TO HOUSE BILL 2041.

I APPEARED BEFORE YOUR COMMITTEE SIX YEARS AGO IN OPPOSITION TO SIMILAR LEGISLATION. MY REASONS FOR OPPOSING THIS LEGISLATION TODAY ARE THE SAME AS THEY WERE THEN. IF YOU PASS HB 2041, YOU WILL BE AUTHORIZING CITYWIDE BRANCH BANKING WHICH WILL LEAD ULTIMATELY TO STATEWIDE BRANCH BANKING AND INCREASED CONCENTRATION OF THE ECONOMIC RESOURCES OF OUR STATE, ALL TO THE DETRIMENT OF THE KANSAS CITIZEN. YOU SAW FIT TO REJECT BRANCH BANKING BEFORE AND I URGE YOU TO DO THE SAME AGAIN.

THERE HAS BEEN MUCH COMMENT THAT ALLOWING LOANS IN DETACHED FACILITIES WOULD IMPROVE THE BANKING SERVICE AND CONVENIENCE FOR KANSANS, HOWEVER, THE AVERAGE CONSUMER IS LOOKING FOR THE DAY-TO-DAY ABILITY TO GET TO THE BANK AT HIS CONVENIENCE AND TO BE ABLE TO MAKE DEPOSITS AND WITHDRAWALS IN A QUICK EFFICIENT MANNER. ON THE AVERAGE, HE DOES NOT BUY A CAR OR OTHER LARGE CONSUMER ITEM MORE THAN ONCE EVERY TWO OR THREE YEARS; THEREFORE, THE ABILITY TO OBTAIN A LOAN AT A BRANCH IS NOT ACTUALLY HIS PRIMARY CONCERN. THE PRESENT DETACHED FACILITY LAW PERMITS THE CONSUMER TO SATISFY HIS BASIC BANKING NEEDS.

ACTUALLY THE REAL ISSUE BEFORE YOU TODAY IS NOT WHETHER TO ALLOW LOANS IN DETACHED FACILITIES BUT WHETHER YOU WISH TO AUTHORIZE CITYWIDE BRANCH BANKING. THE ABILITY TO MAKE LOANS OR NOT IN A DETACHED FACILITY

IS THE ONLY THING THAT SEPARATES A DETACHED FACILITY FROM A BRANCH BANK. PERHAPS THAT IS WHY THE PROPONENTS OF THE BILL DO NOT CALL IT 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. THINK ABOUT IT FOR A MOMENT. IF THE DETACHED FACILITY CAN DO EVERYTHING THAT THE MAIN OFFICE CAN DO (THAT IS, OPEN SAVINGS AND CHECKING ACCOUNTS, TAKE DEPOSITS, PROCESS WITHDRAWALS, ACCEPT TRANSFERS BETWEEN CHECKING AND SAVINGS, MAKE LOANS, RENT SAFE DEPOSIT BOXES, ISSUE CERTIFICATES OF DEPOSIT, CASHIER'S CHECKS, AND TRAVELERS CHECKS), THEN WHAT REALLY IS THE DIFFERENCE BETWEEN THE DETACHED FACILITY AND THE MAIN OFFICE? THERE IS NONE. IN OTHER WORDS, THE DETACHED FACILITY IS A FULL-SERVICE BRANCH BANK.

WHY DO WE OPPOSE BRANCH BANKING? BECAUSE IT LEADS TO BANKING CONCENTRATION EVEN WHEN IT IS GEOGRAPHICALLY LIMITED. UNDER TODAY'S KANSAS BANKING LAW, NEW BANKS WITH NEW AND SEPARATE BOARDS OF DIRECTORS ARE CHARTERED TO SERVE NEW AREAS AS COMMUNITIES ACROSS OUR STATE GROW. THIS PROVIDES A HEALTHY COMPETITION FOR THE BANKING PUBLIC. THIS COMPETITION THROUGH NEW BANK CHARTERS WILL NOT EXIST, HOWEVER, IF YOU PERMIT CITYWIDE BRANCH BANKING.

WHY DO I MAKE THIS STATEMENT? LET'S TAKE THE CITY OF WICHITA AS AN EXAMPLE. TODAY THERE ARE 15 BANKS IN WICHITA. IN THE EARLY 1950'S, THERE WERE ONLY 6. IF THE BILL BEFORE YOU TODAY HAD ALREADY BEEN KANSAS LAW, THOSE 6 BANKS WOULD HAVE BEEN AUTHORIZED 18 FULL-SERVICE BRANCHES PERMITTING THE POSSIBILITY OF 24 FULL-SERVICE BANKING OFFICES IN WICHITA. KEEPING THIS IN MIND, I ASK YOU HOW MANY OF THE

9 NEW BANKS ACTUALLY CHARTERED IN WICHITA SINCE 1950 WOULD HAVE BEEN CHARTERED? PROBABLY NONE, SINCE THE 6 EXISTING BANKS WOULD HAVE BEEN ABLE TO PLACE FULL-SERVICE BRANCHES IN NEW AREAS OF OUR TOWN AS THE TOWN GREW.

HISTORY ASIDE, IF YOU PASS HOUSE BILL 2041, THE EXISTING 15 BANKS IN WICHITA WILL BE AUTHORIZED 45 FULL-SERVICE BANKING OFFICES BRINGING THE MAXIMUM NUMBER OF BANKING OFFICES AVAILABLE IN WICHITA TO 60. CERTAINLY VERY FEW, IF ANY, NEW CHARTERS WILL THEN BE GRANTED IN WICHITA OVER THE NEXT THIRTY YEARS. 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. LET'S CONSIDER THE NUMBER AND LOCATION OF FACILITIES (3 CITYWIDE) FOR A MOMENT. IF YOU EXAMINE A MAP OF WICHITA, YOU WILL NOTICE THAT THE MAJORITY OF FACILITIES NOW IN OPERATION ARE LOCATED IN THE EAST AND WEST AREAS OF THE CITY WHILE THE NORTH AND SOUTH AREAS ARE NOT AS HEAVILY SERVED. IF THE ORIGINAL REASON FOR THE EXISTENCE OF THESE FACILITIES WAS TO SERVE THE PUBLIC, THEN IT FOLLOWS THAT, TO DO SO, THE NUMBER RESTRICTION MUST BE TOTALLY REMOVED. FOLLOWING THE SAME LINE OF REASONING, SUBSEQUENT LEGISLATURES CAN BE FACED WITH THE PROBLEM OF EXTENDING THE LOCATION OF THE FACILITIES OUTSIDE THE CITY LIMITS TO COUNTY LIMITS OR TO CONTIGUOUS COUNTY LIMITS. THE ULTIMATE END TO THESE REQUESTS IS FULL STATEWIDE BRANCH BANKING WITH AN UNLIMITED NUMBER OF BANKING OFFICES. AT THAT POINT, YOU WILL

HAVE OPENED THE DOOR TO MAXIMUM CONCENTRATION OF THE ECONOMIC RESOURCES OF KANSAS. WHILE I REALIZE THAT THIS LEGISLATURE CANNOT BE RESPONSIBLE FOR THE ACTION OF FUTURE LEGISLATURES, IT APPEARS TO ME TO BE TOO GREAT A GAMBLE TO PASS IRREVERSIBLE LEGISLATION SUCH AS HOUSE BILL 2041 WITH THE IDEA THAT A FUTURE LEGISLATURE WILL NOT ALLOW BRANCHING TO EXPAND. THE HAZARDS TO THE PEOPLE OF THE STATE OF KANSAS THROUGH BRANCH BANKING FAR OUTWEIGH ANY POTENTIAL BENEFITS WHICH MIGHT ACCRUE FROM THE PASSAGE OF THIS LEGISLATION.

LET ME CITE ONE OTHER EXAMPLE. IN AN ARTICLE WRITTEN IN NOVEMBER, 1963, DISCUSSING BANKING PROBLEMS IN NORTH CAROLINA, THE AUTHOR INDICATED THAT NORTH CAROLINA HAD BEEN A BRANCHING STATE WITH A GOOD BALANCE BETWEEN THE LARGER BANKS AND THE SMALLER INDEPENDENT BANKS. THEN, IN 1958, TWO OF THE LARGE BANKS BEGAN MERGING WITH SMALL BANKS ACROSS THE STATE. BY 1963, JUST FIVE YEARS LATER, THE NUMBER OF BANKS IN SOUTH CAROLINA HAD DECLINED FROM 209 TO 156, A DECREASE OF 25%. OF THE 156 BANKS, 6 HELD APPROXIMATELY 80% OF THE COMMERCIAL BANK DEPOSITS IN THE STATE. AS I HAVE SAID, THIS WAS IN 1963. FDIC STATISTICS SHOW THAT THE NUMBER OF INSURED COMMERCIAL BANKS IN NORTH CAROLINA BY JUNE 30, 1981, HAD CONTINUED TO DECLINE TO ONLY 78.

ACCORDING TO 1980 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%. AT THAT LEVEL OF CONTROL OF ECONOMIC RESOURCES, BRANCH BANKING TENDS TO REMOVE THE 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 THE FUNDS IN A LOCAL COMMUNITY IS PRIMARILY DETERMINED BY THE PARENT BANK IN THE LARGER METROPOLITAN CENTERS. THE PARENT BANK MAY MAKE AGRICULTURAL LOANS LOCALLY; HOWEVER, THEY MAY USE LOCAL FUNDS FOR 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. THIS CAN ALL BE AVOIDED BY A "NO" VOTE ON HOUSE BILL 2041.

YOU ARE NOT HEARING A DEMAND FOR THIS BILL FROM YOUR CONSTITUENTS. 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 IN 1958, THE VOTE WAS NEARLY 3 TO 1 AGAINST BRANCHES AND, MORE RECENTLY, IN 1980, A BRANCHING PROPOSITION IN COLORADO 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 WHICH KANSAS NOW HAS DOES THIS JOB.

IN CONCLUSION, I WOULD LIKE TO AGAIN STATE THAT MY PURPOSE HERE THIS MORNING 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 INTERESTS OF THE PEOPLE OF KANSAS. OUR PRESENT BANKING SYSTEM HAS BEEN A VIABLE SYSTEM FOR OVER 100 YEARS. IT HAS ALLOWED OUR STATE TO GROW AND PROSPER. IN 1983, KANSAS WAS RANKED TENTH NATIONWIDE IN OVERALL BUSINESS CLIMATE, SIXTH IN SMALL BUSINESS CLIMATE, AND FIRST 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 THE CREDIT NEEDS OF ALL PHASES OF THE ECONOMY ARE BEING MET.

BEFORE YOU VOTE ON THIS BILL, CONSIDER THE FOLLOWING THREE POINTS:

1. THE BILL WILL PERMIT CITYWIDE BRANCH BANKING IN ANY TOWN IN KANSAS.
2. THE BILL IS IRREVERSIBLE AND WILL ULTIMATELY LEAD TO CONCENTRATION OF THE ECONOMIC RESOURCES OF OUR STATE.
3. THERE IS NO STRONG PUBLIC DEMAND FOR THIS LEGISLATION.

I URGE THE MEMBERS OF THE COMMITTEE TO VOTE AGAINST HOUSE BILL 2041.
THANK YOU.

SENATE COMMERCIAL & FINANCIAL INSTITUTIONS COMMITTEE

March 23, 1984

Opposition Testimony by

Russ Watkins

Mr. Chairman. Members of the Committee.

I am Russ Watkins, President of the Kansas Independent Bankers Association and President of the Fairlawn Plaza State Bank here in Topeka. The Kansas Independent Bankers Association has consistently opposed legislation such as HB 2041 in the past, and we find no reason to change our position.

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.

Proponents would tell you that we should allow loans in facilities because it's already happening out there; we ask you: why should you reward people and banks who have flouted 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 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 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 withing 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 a 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. 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, what is the purpose of 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 thus 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 deregulation, 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 banking industry? Are they clamoring for this legislation? No. The reverse is the actual truth.

In 1976, the Kansas Bankers Association 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.

And let's 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 most of this time savings and loans could pay a quarter percent higher interest on those deposits, too.

What will happen now that the 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 brethren.

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.