Approved March 29, 1988
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

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

9:00 a.m./~~p.m.~~ on March 28, 1988 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Myrta Anderson, Legislative Research
Bill Edds, Revisor of Statutes

Conferees appearing before the committee: None

The meeting began with a short discussion led by Sen. Kerr regarding the minutes of March 25. It was the concensus of the committee to change the wording of Sen. Burke's motion on HB 3055 from "on a call for a second on Sen. Burke's motion" to "Sen. Burke's motion was renewed". Also with regard to those minutes, the Chairman noted that there had been some confusion regarding Sen. Reilly's motion on HB 3055 in regard to the number of hours involved. The Chairman explained that Sen. Reilly's motion was it would be eight hours every two years for each line. Sen. Reilly said he had been asked to reconsider several times over the week end. Sen. Reilly made a motion to reconsider his action, Sen. Karr seconded. The Chairman noted that there could be a delay on the reconsideration which could result in the bill not being considered due to a lack of time. On a call for a vote on Sen. Reilly's motion, the motion carried. The Chairman then asked the committee if it wished to leave the bill as in the motion with the intent of eight hours biennially or to change it to sixteen hours biennially. Sen. Karr commented that the original intent of the bill was for eight hours each year, and Sen. Reilly's motion cuts the time in half which Sen. Karr thinks was not the intent of the bill. Sen. Karr made a motion to increase the hours to sixteen, Sen. Gordon seconded. A short discussion followed as to how the insurance agents feel about this and as to the background of the amendment. On a call for a vote on Sen. Karr's motion, the Chairman declared it a tie. On a show of hands, the motion failed. Thus, the original motion of Sen. Burke to pass the bill as amended carried.

Attention was turned to HB 2738 dealing with bank powers. The Chairman reviewed the concerns of different groups. (See Attachments I and II.) He suggested that the committee could add the authority to issue and underwrite municipal bonds as shown in the balloon by the Kansas Bankers Association. Also, he suggested that "or acquire" on lines 195-96 could be taken out to restrict this so that it would allow only the selling and not the underwriting. He noted that these suggestions are not what any one group wants.

Sen. Werts made a motion that the proposed compromise by the KBA be adopted plus striking on lines 195-196 "or acquire", Sen. Kerr seconded. Sen. Gannon asked what guidance there is from the federal government on this. The Chairman said that there is a federal bill that will do similar things on a national basis. With regard to "other securities", Sen. Karr asked the Chairman if striking underwriting would partially solve this problem. The Chairman said it would except in the formation of their own subsidiary. On a call for a vote on Sen. Wert's motion, the motion carried. Sen. Gordon felt there is a need to strike "other securities". A short discussion followed in which the Chairman stated that there is no doubt that this involves a turf fight.

Sen. Karr made a motion to recommend HB 2738 favorable as amended, Sen. Werts seconded.

Sen. Gannon stated that he supports the motion, but he has a problem with the bill in view of what happened with the stock market last October 19. The Chairman agreed, and a short discussion followed in which the Chairman also explained to Sen. Warren that the fear is that the bill would permit banks to get in the business of what now is sold exclusively by insurance companies (such as variable annuities).

On a call for a vote on Sen. Karr's motion, the motion carried with one "No" vote.

Discussion began on HB 2971 concerning rate making for certain insurers. The Chairman recalled that the bill would allow the Insurance Commissioner to require additional information on filing of rate schedules if he so desired. There were a number of amendments by the House referred to as the "State Farm amendments". The Chairman noted that the trial lawyers are in favor of the bill, but the insurance companies oppose it because they fear it will affect the availability of coverage and add to their operational costs thereby increasing their premiums. Furthermore, there had been an opinion expressed that there are two definitions of "excessive" in the bill. Staff noted that one such place that this appears is on page 2, line 65 of the bill, and that there is not necessarily two definitions of this.

Sen. Reilly said he wanted to declare his conflict as an agent, but he wants to do anything to enhance Kansas as a marketplace. He feels it may have a lot of merit, but he is concerned if it will be accomplished and feels more information on how it is working in Florida is needed. He asked the committee if it would consider the possibility of recommending an interim study. The Chairman said he does not oppose this, but this has been done in an interim study two years ago. In a discussion of the Florida statute, it was determined that this bill is milder than the Florida statute. Sen. Kerr asked the Chairman what happened in the interim discussion. The Chairman answered that this subject was thoroughly discussed, but there was a lot of compromise between the lawyers and the insurance people, and it was not adopted. Sen. Gannon asked why the language on line 152 was stricken because he thinks the financial condition of a company is very important. Ron Todd of the Insurance Department explained that this was amended by the House committee because this section deals with rate filing, and the Department can examine financial conditions by authority of another section. Further discussion followed regarding Sen. Gannon's questioning why "preponderence of evidence" was stricken. The Chairman concluded that this is permissive legislation for the Insurance Department and does not necessarily mean they will require it of everybody. The burden of proof to determine the merit of requested rate changes is changed from the Department to the insurance companies.

Sen. Gannon made a motion to recommend HB 2971 favorably, Sen. Strick seconded, and the motion failed.

Sen. Reilly made a motion that an interim study be requested, Sen. Kerr seconded, and the motion carried.

A discussion began of a bill which had been referred to committee last Friday, SB 747 which would extend the sunset for loan amortization allowed for banks on write downs of loan values. The Chairman said the banks support the bill.

Sen. Karr made a motion to report SB 747 favorable for passage, Sen. Burke seconded, and the motion carried.

Sen. Burke began a short discussion of SB 717 dealing with law enforcement liability pools. Sen. Burke said he has had inquiries about this bill from people in support of it. The Chairman said he feels there is no time left to work the bill and also pooling was just passed last session, and it hasn't had time to work.

The Chairman said that the amendments on HB 2723 regarding insurance company examination fees will be discussed at tomorrow's meeting which will begin at 8:30 a.m.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
3/28/88	Pete McGill	Topeka	KIBA
"	Sue Anderson	Carbondale	KIBA
	L M Cornish	Topeka	Ks Assoc Prop & Cas Ins Cos
	Ben Todd	"	INS. Dept.
	M. Hauver	"	Cap-Journal
	Jim Oliver	"	Prof Ins Agts
	William L. Mitchell	Hutchinson	Alliance
	Lori Callahan	Topeka	AIA
	Karen McClain	Topeka	Ks. Assoc. of REALTORS
	Lee WRIGHT	Overland Park	Farmers Ins Group
	Bud Grant	Topeka	KTLA
	Jerel Wright	Topeka	Ks Credit Union League
	Jim Maag	"	KBA
	Chuck Stones	"	"
	JOE A. MORRIS	"	KCSI
	LARRY MAGILL	"	IIAK

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KANSAS BANKERS ASSN.

1500 MERCHANTS NTL. BLDG. TOPEKA, KS 66612

March 24, 1988

TO: SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

FROM: KANSAS BANKERS ASSOCIATION

RE: AMENDMENTS TO HOUSE BILL 2738

Thank you, Mr. Chairman, and members of the Committee for this opportunity for input on the two amendments proposed to the Commitee.

(A) AMENDMENT PROPOSED BY THE KIBA

Attached you will find a "mark-up" of the KIBA proposed amendment, and the KBA proposed compromise. We believe the KBA Compromise keeps the spirit of the amendment intact. The KBA Compromise accepts the KIBA's amendment with only two exceptions. These exceptions did not seem to be the "heart" of their concern. In fact, neither of our exceptions was directly mentioned in their testimony. The two exceptions are:

(1) Keeping the opportunity to "acquire" as well as establish a subsidiary (Lines 195-196); and

(2) Keeping the opportunity for a Kansas bank or banks to form and own their own mutual fund, rather than be forced to deal with an existing fund owned by a Merrill Lynch, or a Security Benefit Life. (Lines 200-201).

According to the KIBA testimony, presented by Mr. Prickett, their concern centers mainly on banks assuming the risk of equity investing and underwriting corporate securities. Although the KBA State Affairs Committee, meeting yesterday, did not necessarily share those concerns, in the spirit of compromise, they unanimously accepted them. The KBA State Affairs committee also unamimously accepted the several other changes offered in this amendment by the KIBA.

The KBA State Affairs Committee unanimously voted for this Compromise attempt, and immediately called the KIBA so as to hope to avoid a disagreement on these issues with the FI&I Committee. We have presented the KIBA with written copies of our amendment prior to today's hearing in this same hopeful spirit.

Attachment I

(B) AMENDMENT PROPOSED BY MR. CORNISH AND SECURITY BENEFIT LIFE INSURANCE COMPANY

Yesterday, you received a memo from the KBA which clearly outlines our position on this amendment. A copy of that memo is attached. In summary we urge the committee to:

(1) Either extend the amendment to prohibit a Kansas licensed insurance agent or a Kansas domiciled insurance company from offering to consumers, FDIC insured deposit products and/or checking account access to funds; or

(2) Reject the amendment.

Our State Affairs Committe was unanimous and felt rather strongly about this provision.

Mr. Chairman, Members of the Committee, thank you for this opportunity.

KIBA AMENDMENT

safe and sound banking practices, a bank may establish ~~or ac-quire~~ a subsidiary which engages in securities activities ~~and any aspect of the securities business, including, but without limitation because of enumeration~~, (a) ~~issuing, underwriting~~, selling or distributing stocks, bonds, debentures, notes, ~~interests in any type of mutual funds~~ and other securities, (b) ~~organizing, sponsoring and operating mutual funds~~, (d) (c) acting as a securities broker-dealer, ~~and (d) acting as an investment adviser to any investment company~~.

THE FOLLOWING

ISSUING AND UNDERWRITING MUNICIPAL BONDS, (C) DEALING IN, SELLING, AND DISTRIBUTING AS PRINCIPAL OR AGENT, SECURITIES ISSUED BY ANY INVESTMENT COMPANY (MUTUAL FUNDS), AND

KBA PROPOSED COMPROMISE

HB 2738—Am. by HCW
6

safe and sound banking practices, a bank may establish or acquire a subsidiary which engages in securities activities ~~and any aspect of the securities business, including, but without limitation because of enumeration~~, (a) ~~issuing, underwriting~~, selling or distributing stocks, bonds, debentures, notes, ~~interests in any type of~~, mutual funds and other securities, ~~(b)~~ organizing, sponsoring and operating mutual funds, ~~(c)~~ acting as a securities broker-dealer~~; and (d) acting as an investment adviser to any investment company.~~

the following

(b) issuing and underwriting municipal bonds,

(c)

(d)

Kansas Independent Bankers Association Inc.
P.O. Box 389 • Carbondale, Kansas 66414 • 913/564-9287

March 28, 1988

Dear Senator:

The KIBA amendment to HB 2738 **SEEKS SAFEGUARDS** for the proposed securities powers, by moderating the most risky activities. Risk in the subsidiary can directly/indirectly diminish bank capital which in turn jeopardizes the stability of the bank for the customer.

As a legislative member of the Senate Committee on Financial Institutions, you originate the responsibility to assure the safety of financial deposits for the people of Kansas.

We perceive a danger in allowing banks to acquire existing securities firms and underwrite mutual funds. House Bill 2738 is a measure, which without proper safeguards, could have **DETRIMENTAL EFFECTS** on the safety of bank deposits.

By acquiring securities firms, banks could own subsidiaries already operating a network of interstate branches. The right of Kansas to determine the course of financial structure for Kansans would be eroded.

A part of the **CRITICAL FINANCIAL SITUATIONS** of many of America's savings and loans can be traced to the broad and RISKY securities powers received in 1982 in efforts to bail out a troubled industry.[1] These powers have been abused and have further eroded the stability of the S&L industry. The United States suffered this same type of abuse during the Great Depression of the 1930's.

Please take a moment to review the attached page. A brief summary of the safeguards in our amendment is listed. It establishes a more **CAUTIOUS APPROACH** to securities powers - while encouraging consideration of additional banking services.

Thank you for your courtesy.

The Kansas Independent Bankers Association

1 Jeff Bailey and G. Christian Hill, "Banks and S&L's Face New Wave of Failures...," The Wall Street Journal, 25 Mar. 1988.

Attachment II

KIBA PROPOSED AMENDMENT FOR SAFEGUARDS IN HB 2738

safe and sound banking practices, a bank may establish ~~or acquire~~ a subsidiary which engages in the following *securities activities ~~and any aspect of the securities business, including, but without limitation because of enumeration~~, (a) ~~issuing~~, ~~underwriting~~, selling or distributing stocks, bonds, debentures, notes, ~~interests in any type of mutual funds and other securities~~,* (b) issuing and underwriting municipal bonds, *~~(b) organizing, sponsoring and operating mutual funds~~,* (c) dealing in, selling, and distributing as principal or agent, securities issued by any investment company (mutual funds), and *~~(c)~~* (d) *acting as a securities broker-dealer. ~~and (d) acting as an investment adviser to any investment company~~*

Line 0195-0196: Eliminates the words "or acquire."

The outright purchase of full-fledged securities firms indirectly exposes the bank (and consequently its depository structure) to the HIGHEST RISK OF UNDERWRITING INVESTMENT ACTIVITY which is tied to UNSTABLE ECONOMIC FACTORS.

Line 0196: Adds the words "to follow."

Establishes guidelines for powers. Eliminates the fill-in-the-blank approach to additional securities powers. Provides instead for legislative procedure. Regulatory agencies are given guidelines for enforcement of new powers.

Line 0198: Deletes "issuing, underwriting."

Removing the risk associated with originating and backing securities products, helps assure the stability of the subsidiary, and reduces the financial exposure of the bank.

Line 0200: Introduces new subsection (b).

The issuing and underwriting of municipal bonds provides a specific service of relatively low risk which could be used by many banks in the state to enhance development within their communities.

Line 0200: Deletes original subsection (b).

This deletion reduces the risk for the bank-owned securities subsidiary. To be attractive performers, mutual funds include some degree of speculative investments. Underwriting is necessary to sponsor/operate a mutual fund. A high degree of initial exposure to the subsidiary (and indirectly to the bank) can occur with each portfolio purchase.

Line 0201: Introduces new subsection (c).

Provides for the bank subsidiary to provide mutual fund services with reduced risk, by eliminating the underwriting (financial backing) aspect of mutual funds.