

Approved D. J. G. [Signature] 2-13-91
Date

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTION

The meeting was called to order by Representative Delbert L. Gross at
Chairperson

3:30 ~~am~~/p.m. on February 7, 1991 in room 527-S of the Capitol.

All members were present except:

Committee staff present: Bill Wolff, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
June Evans, Secretary

Conferees appearing before the committee: Gary Sherrer, Senior Vice President,
Fourth Financial Corporation
H. Samuel Forrer, Ulysses

The Chairperson called the meeting to order at 3:30 P.M.

Representative King moved and Representative Watson seconded the minutes of the January 22, 29, 30, 31 and February 4, 1991 meetings be approved. The motion carried unanimously.

A memorandum recommending passage of HB 2059 was distributed. (See Attachment #1).

The Chairperson stated there would be a 15 minute summation by both the proponents and opponents then a vote will be taken on HB 2059.

Gary Sherrer, Senior Vice President, Fourth Financial Corporation, gave a summation of HB 2059 supporting passage of the bill. Mr. Sherrer stated it is obvious that interstate banking is not an "unknown quantity". The interstate experience throughout the United States has proven that small community banks, large urban banks, and regional interstate banks can compete side by side and provide improved banking services for their customers. There is no evidence that the implementation of interstate laws have adversely impacted agricultural lending in states similar to Kansas.

Kansas Bankers Association did come in in behalf of interstate banking. Their poll indicated that 54% supported the bill and KBA gave the committee a report on this procedure.

Some of the supporters of interstate banking are: Federal Deposit Insurance Corporation, Federal Reserve Bank of Kansas City, and the Institute for Public Policy and Business Research, University of Kansas, who did an indepth study and research showed interstate banking is needed.

There is a push for interstate banking nationally and eventually it will be here. There is a change going on and there is a need to adopt change. Legislative action on bank structure issues in the 1980s have proven to be very positive for banks and their customers and interstate banking will do the same.

H. Samuel Forrer, Ulysses, gave a summation oppossing HB 2059. Mr. Forrer stated this is not a banking bill. It is a bill about who will control the banks of Kansas. People who do not have a bank are not asking for this bill; it is the bankers that are asking this bill be passed.

Ownership and control is what the bill deals with. This bill will not offer more credit or services. Larger banks are not doing the job in other states.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTIONS,

room 527-S Statehouse, at 3:30 a.m./p.m. on February 7, 1991

Kansas has interstate banking now. We do not have out-of-state ownership and that is the crux of this bill. Who will control our Kansas banks:

1. Control of assets will shift to a few.
2. Inordinate growth.
3. Number of banks have dropped in the last five years.
4. The opponents appetites are never appeased; we do not need to make it easy for the bank owner.

Interstate banking will use Kansas capital to help other states -- this is not in the best interest of Kansas.

This bill is limited to only six states, it is very limited, if it is good, why isn't it nationwide?

If you must pass this bill, then take out the hypocrisy - not just for 6 states but open it up nationwide. This is misleading the Kansas public. Once this legislation is passed it cannot be taken back.

It is the big banks that are breaking the FDIC and the big savings and loans that are breaking the FSLIC. (See Attachment #2)

The Chairperson asked the Committee if there were any questions. After discussion, Vice Chairperson Roy moved and Representative Johnson seconded that HB 2059 be passed out of Committee favorably.

Representative Shallenburger offered a substitute motion and Representative King seconded to table HB 2059 until January 30, 1992.

The Chairperson asked for a vote to table HB 2059 until January 30, 1992.

The Chairperson asked for a show of hands which revealed: 9 Nos and 8 Yeas. The motion failed.

Vice Chairperson Roy stated both the proponents and opponents have stated their positions very articulately. This bill will give Kansas banks an opportunity down the road about nationwide if and when nationwide becomes available. This will provide Kansas with more diversified interests and I ask your support in passing this bill out of Committee favorably.

The Chairperson asked for a vote on the original motion to pass HB 2059 out of Committee favorably which revealed: 9 Yeas and 8 Nos.

Representatives Roper and King requested to be recorded as voting "No".

Representative Watson and Wagle requested to be recorded as voting "Yes".

Representative Watson stated that he did not know enough about interstate banking but did resent the pressure of both the proponents and opponents. Representative Watson further stated he felt he owed it to his colleagues to have this heard on the Floor of the full House.

The Chairperson stated that HB 2059 passes favorably out of Committee and will go to the full House.

The meeting adjourned at 4:15 P.M.

Date: 2-7-91

GUEST REGISTER

HOUSE

COMMERCIAL & FINANCIAL INSTITUTIONS COMMITTEE

NAME	ORGANIZATION	ADDRESS
Sue Anderson	Comm. Bankers Assn.	Topeka
Max Lowry	First National Bank	Logan
Charles V. Mayer	Comm. Bankers Assn	Phillipsburg Kansas
Alan Steppat	Pete McBillig Associates	Topeka
ARMIN SAMUELOW	SELF	Hesston
Kathy Spruce	CBA	Topeka
Jeri Steppat	CBA	Topeka
Anita McMill	CBA	"

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

TO: Members of Commercial & Financial Institutions
FROM: Representative Tom Bishop *T. Bishop*
DATE: February 7, 1991
RE: HB 2059

As a member of the Economic Development Committee, a small business operator and Vice-Chair of the Affordable Housing Advisory Committee I am convinced interstate banking will make new capital available, and not harm small family owned institutions.

I urge passage of this important bill in your committee and ask for your support on the floor as well.

I would be glad to discuss this with members of the committee at your convenience.

*2-7-91
CF&I
A/ed#1*

REBUTTAL SUMMARY

by H. Samuel Forrer

Opponent to HB 2059

We've watched the S&L debacle..now the big banks are providing an instant replay. The FSLIC went broke and the FDIC is in a pinch. The outfits that impaired both insurance agencies have many things in common. They were too big to manage. And when big outfits make a mistake, they make big mistakes. It was the giant S&L's and now the big banks causing the problems for all. They have common characteristics...thin capital and management usually caught up in getting big, rather than running a sound business....and we're paying the price. Today's proponents are the same ones who, only a few years ago, wanted banking laws changed to parallel S&L's so they could compete on a "level playing field." We saw through that and opposed it. Failed Kansas banks have cost the taxpayer nothin~, but Texas banks have...and it's tied directly to interstate banking.

The proponents have provided you no proof....lots of rhetoric, but no proof. That's because there is none. Kansas banks are strong, depositors secure and customers well-served. It's in states with laws like HB2059 that have the unmanageable banks. Kansas bank performance didn't prompt the Community Reinvestment Act. It was the big banks' poor performance in other states that did.

This is a simple issue. Ownership always calls the shots...always has, always will. That's the only reason anyone ever owns anything, to have control...call the shots. This Bill deals only with who will own Kansas banks. We believe Kansans can do a better job than foreigners in running Kansas banks for Kansans.

That's why we oppose HB 2059 and why we ask you to do likewise.

REBUTTAL TESTIMONY
IN OPPOSITION TO HB 2059

Before

The House Committee on Commercial and Financial Institutions

H. Samuel Forrer

February 7, 1991

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INTRODUCTION

Mr. Chairperson and members of the Committee, you have heard testimony by lobbyists, bankers and regulators, explaining their respective viewpoint. It can easily become confusing as each attempts to justify their position by introducing a lot of information. I suggest that your most important task is to sort out that information which is pertinent from that which is otherwise. I don't believe that's very difficult if we use the Bill itself as our reference.

A careful reading of the Bill reveals it to be an instruction sheet about how an out-of-state holding company can "acquire, directly, or indirectly, ownership or control of....any...or...all of the assets of a bank having its principal place of business located in this state...." That's the heart of it. Opponents believe its a bad idea to put our States' resources in the control of out-of-state owners. We think Kansans are better equipped to make decisions about how our resources should be used.

APPEASEMENT CARROTS

There are some phrases in the language of the Bill which may sound good, but are actually a hollow promises. They are designed to allay realistic reservations of thinking people. But they have little substance in practice. I call them APPEASEMENT CARROTS. Here are some of them:

APPEASEMENT CARROT #1--(New Section 4.) This section says out-of-state ownership will come only from Oklahoma, Missouri, Nebraska, Colorado, Iowa and Arkansas. On the face of it, this admits there is something undesirable with this out-of-state ownership concept or there would be no limits needed. Notwithstanding that, this is supposed to assure you that we won't get hooked up with the bad banks in the East and elsewhere.

That promise carries as much weight as the proponents' previous (now broken) assurances, (the same assurances they have made with every other similar legislative initiative in the past). The latest assurance given, then forgotten, is the 9% protective cap. You remember way back in 1985 when the proponents agreed that no institution should control over 9% of total Kansas deposits (not just bank deposits) and that was all they wanted? It took only five years for them to outgrow that limited appetite. In the last session the Legislature, assured by proponents that a 12% protective cap was plenty, raised it as the few requested. They'll be back. Six states for now. In the future it will be more. That's the proponents' modus operandi....and if you believe otherwise, you will be sadly mistaken.

APPEASEMENT CARROT #2--(Sec 2.) This section says "...a majority of the board of directors of each bank domiciled in this state which is a subsidiary of a bank holding company shall be residents of the local community..." First, I doubt if State statute can enforce that in a national bank. But even if it can, the question is whether that Board can be effective for its community. For instance, the whole Board of Directors of the Victoria (Texas) NCNB (that's one of the several Texas banks now owned by the North Carolina National Bank) resigned because of "a lack of commitment to the community..[by NCNB]." In response, the NCNB referred to those previously known to be directors, as "advisors". Ownership always rules, as it should. No matter what language we may write, the owner, whether in-state or out-of-state, ultimately rules.

PROponents' CONTENTIONS/OPponents' RESPONSE

PRO: Interstate banking (HB 2059) is a banking issue.

OPP: UNTRUE. Deals only with the bank ownership, not banking.

PRO: HB 2059 will empower Kansas banks to compete effectively with other types of financial institutions.

OPP: UNTRUE. HB 2059 only defines how Kansas banking organizations can be acquired by out-of-state banking organizations. It provides no competitive tools not already available to all Kansas banks. We challenge proponents to be specific.

PRO: HB 2059 would allow banks to provide more services to Kansas.

OPP: UNTRUE. See above. We challenge proponents to specifically name those services.

PRO: The Federal Community Reinvestment Act will assure that the acquired bank(s) will continue to serve its community.

OPP: No one, not even regulators, has suggested that Kansas banks needed a regulation to force them to serve their community. Local bankers have to...the ownership has to live here! Regulation designed to force a certain behavior (like the CRA) rarely works effectively. The proponents are grasping!

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PRO: HB 2059 will increase competition.

OPP: UNTRUE. It promotes fewer competitors. Kansas, with the 1985 law, has seen over 70 competitors disappear. This bill is the same kind of thing, only on an interstate basis. Have you ever noticed that when one major bank raises its prime rate, within hours they all do? Is that competition?

PRO: None of the "horrors" raised by opponents in the past have materialized.

OPP: The word "horrors" is the proponents' sensationalized synonym for opponents' "predictions" which are materializing. Our predictions (all of which have been proven accurate) were/are: 1. Resource control shifts to a few; 2. Inordinate growth is experienced by the same few; 3. Number of

banks in state decreases; 4. Proponents continually return for more liberalized legislation. These things happen to the detriment of the citizens as exemplified by the Maine testimony and the Victoria, Texas example which is discussed in the KBA testimony section.

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PRO: Interstate banking will increase credit availability to agriculture.

OPP: **Absurd!** No proof has been offered because there is none. In fact, the reverse is true.

PRO: Opposition to HB2059 is "refusing to acknowledge the changes going on in banking and finance throughout the Country."

OPP: Proponents clearly see and understand what is going on elsewhere and believe Kansans want no part of the debacle.

PRO: Proponents claim "It becomes so very, very clear that the hard evidence supports [interstate banking]."

OPP: Where's the hard evidence? The only thing that has been forthcoming is polished rhetoric. Where's the "beef?"

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FACTS OF NOTE

FACT:

---Not one example has been given of additional services Kansans might have a result of HB 2059. That's because there are none.

FACT:

---HB 2059 has nothing to do with interstate banking...Kansas has had interstate banking for years. It is a one-issue bill that outlines how Kansas banks can be sold to out-of-state holding companies--nothing more, nothing less.

FACT:

---Opponents to Cartel Banking Structure have been constant in their contentions.

Their predictions:

"...when independent banking ~s sacrificed for cartel banking structures....Financial control shifts into the hands of a few people...Inordinate growth is experience by a small number of banks...The total number of banks in the state decreases dramatically...Advocates of branching and multi-banking continue to request further liberalization of banking structure laws.."

Testimony before this committee by
H. Samuel Forrer on 2-1-73

For example:

---The 9% protective cap (appeasement carrot) in the 1985 law (which was represented as Kansas' citizens protection against a shift of control to a few bankers) didn't last long. Proponents came right back and requested that cap be raised to 12%. It was granted in the last session.

For example:

---"During the last 12 months, Fourth Financial has grown substantially. Since June 30, 1989, the company's assets have increased by 52%, from \$2.7 billion to \$4.1 billion; and its deposit size has grown by 59%, from \$2.2 billion to \$3.6 billion."

Fourth Financial Corporation News Release
June 29, 1990

For example:

---Kansas has 70 fewer banks now than it did 5 years ago.

FACT:

---Kansas holding companies can buy out-of-state banks, **now!**

FACT:

---"The main reason I support this is to give me another way
to sell my bank."

The rationale given me by many small bankers for
supporting this type of legislation.

FACT:

---"I'm glad. I feel better."

The characterized response given by three separate customers of our bank last week after we answered "no" to their unsolicited questions: "Is your bank going to sell-out to a big bank? Is your bank going to buy out any other banks?"

* * * * *

FACT:

---98% of all Kansas business is considered to be small. 75% of all small business is financed by small banks.

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FACT:

The proponents are the same people who, a few short years ago, were imploring regulators for a "level playing field" in order to compete with S&L's. They wanted the same powers as the S&L's. They wanted the bank regulators to be the "cheerleaders" for the banking industry like the S&L regulators were for their industry. The opponents were adamant in the dangers of such powers. The S&L debacle suggests the proponents vision is blurred, as it is about out-of-state ownership of Kansas banks.

RESPONSE TO TESTIMONY OF KANSAS BANKERS ASSOCIATION

The mere fact that the KBA has taken a formal position on this divisive issue speaks to what results from the concentration of power. That position was not adopted until after the 1985 law which allowed holding companies to own multiple banks...so now one owner has more than one vote in the Association and "those that have the gold, rule."

The KBA lobbyist cited a December article of the Wall Street Journal that discussed the acquisition of the capital-depleted Texas multiple bank holding company by the thinly capitalized NCNB, North Carolina National Bank. He attempted to justify out-of-state ownership by reporting that the whole operation made a profit because the Texas part did well while the North Carolina part did poorly. This supposedly points out how everyone can win all the time. If you believe that, then you believe that all banks in the U.S. should be combined because the industry as a whole has always made a profit.

What he didn't say was reported in a January issue of the Wall Street Journal. The Texas profits came largely from tax breaks granted NCNB at the time of acquisition (valued at \$4-5 billion). And a lot of people on Capitol Hill are steamed about the apparent "sweetheart deal" cut by the regulators with the banks. One observer said that because the tax breaks will continue for several years, NCNB's position is "Pay me now and pay me later." The taxpayer did participate in the big bank bailout, by subsidizing the out-of-state owner. No two ways about it. A tax-break for one is a tax-bite for another.

But that's not all. On December 5, 1990, all the directors of Victoria (Texas) NCNB resigned because of another injustice caused by out-of-state ownership of Texas banks. Those seven directors objected to the firing of their bank's top two officers without any prior explanation to or knowledge of the Board. Bill Noble, one of those directors said "My main concern is what's happening to Texas banking. Ownership is being controlled by out-of-state banks"...and "there is a lack of commitment to the community." The NCNB spokesman would not comment except to say that he regrets the advisors had resigned.

Just that one situation demonstrates the extraordinary power of huge operations to force regulators to do their bidding, on the back of the taxpayer. The Texas holding company failure shows how the small bank was sucked dry for the benefit of the company before they all went broke. Then after the acquisition by NCNB it shows how the out-of-state owner looks at its distant Texas operation and the small community.

Incidentally, in those Texas banks' failure, a string of affiliated small banks in small towns which were doing alright were closed, after stripping their capital for the use of parent holding company.

Why would the KBA hang its hat on such a thin reed? Maybe it's the best it could find to support a weak position, but it is a poor one. None of these scenarios is Ppalatable for Kansans.

The KBA lobbyist also said that banks should have no more statutory chains on out-of-state ownership than other industry. **That is ludicrous!** The man on the street knows why and so does the KBA. Banks deal in other peoples money and very

little of its own. Without constraints, bankers can get to thinking they're playing on house money. History shows that without restraints unique to financial institutions, abuse usually results. We've seen plenty of it. Why would we want to participate?

REGULATOR-RELATED ISSUES

It is ironic that while the regulators have proven they cannot identify trouble spots in the big banks in sufficient time to stop FDIC-crippling losses, nor influence the operation of the big banks in such a way as to curb their disastrous practices, they would advocate bigger banks. FDIC Chairman Seidman has said the big banks are out of capital and at risk. That is apparently why the FDIC wants Kansas banks' strong capital...to get a quick fix for their pressing problems with the giant banks that have no capital.

One regulator said that Kansas banks have below average earnings and that we have a comparative low loan/deposit ratio. That ratio is dependent upon both loans and deposits. Kansas banks have found themselves awash in cash from people who have moved their money to where they feel secure, which drives the ratio down. Is the FDIC suggesting that we have the loan/deposit ratios of the failing banks back east who have jeopardized the FDIC fund? If a regulator's responsibility is assure safety & soundness, how is that consistent with the fact that not one Kansas

bank failure has ever cost the FDIC a dime, and the bank failures in states which permit interstate banking have depleted the FDIC reserves? Our FDIC regulators have always stressed quality before quantity.

Why did not the Kansas State Banking Board, which is the chartering authority and supervises the same Kansas banks as the FDIC, testify in favor of this?

Some suggest that because the OCC, FDIC, and Federal Reserve favor a consolidation of banks, we should too. That is Washington mentality. Washington always wants control. What Kansas citizen wants a greater Washington presence in their lives? None of which I know. Most recently, I hear state legislators complaining about the mandates handed to States from Washington without funding. As a few banks get more power through acquisition and merger, you can expect the same thing from the bank headquarters to the Kansas community. Kansans will have exported control with out-of-state ownership.

PUZZLERS

--How can the KBA be so adamantly opposed to the talked-about restructuring of the of the FDIC that would transfer the strong capital base of Kansas banks to the east, in the same breath support HB2059, which will do the same thing.

--What is the impact of the definition of "insured bank" as it relates to insured branches of foreign banks?

--If this is something that is in the interests of the Kansas citizen, why is there no ground-swell? Even a slight agitation?

WHY?????

DOES THE KBA SUPPORT HB 2059

--When its own survival depends up membership numbers and dues.....

--When its membership has dropped precipitously because of recent changes in bank structure laws.....

--When its membership will further drop if HB2059 is adopted.....

--When NCNB pronounced its reduced support to its state banking associations on a take-it-or-leave-it basis....

One can only conclude it demonstrates the power of control and the approach of those who seek this legislation. I don't think it portend good for Kansas. But of course, that power base continue to expand within Kansas banking and Kansas

politics as those few gain control of more banks and become the constituents of more legislators. Power at all levels is their goal. This bill is just another step.

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WHY?????

---When it has been the failure of big S&L's which broke the FSLIC,

---When it is the impending failure of big banks that is threatening the FDIC Bank Insurance Fund , why would would any banker want to subject its institution to a takeover by the capital-starved big holding companies?

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WHY?????

---When the US Government has loaded the bailout of the S&L's on the backs of the taxpayers, why would any taxpayer want Kansas banks to join up with the big weak sisters and subject themselves to another, larger bailout?

2-16

SUMMARY

Every year, proponents attempt to deftly embarrass the small bankers and the Legislature into thinking that Kansas is behind-the-times, out-of-step, that somehow we are sort of the laughing stock of the Country's bankers-in-the-know. If you do not agree with them, you are characterized as being "provincial" which Webster defines as "countrified".

We have loan customers who attempt to maneuver loan officers into a similar uncomfortable and apologetic mind set. If the loan officer succumbs to that manipulation, we nearly always have a bad loan.

No one wants to be considered backward and just because one or two choose to characterize Kansas banking that way does not make it so. Kansas banks are still more progressive and sound than banks in almost every other state (although with the liberalized laws enacted in recent years that is slipping). The reason is simple, when banks are free to compete among many competitors, one must keep moving...the depositor has access to the real decision-makers who are directly accountable. But as ownership moves further and further from the depositor, the less accountability is needed or practiced.

Finally, I have included an address given to this same body by a distinguished and knowledgeable person in 1973. She spoke from her observations as a vital citizen and a keen observer of human nature. Her credentials speak for themselves. Her direct message is clear and as appropriate today as it was then. Please take time to read the message of Georgia Neese Clark Gray, the former Treasurer of the United States. It has a credibility that no present banker can claim.

Thank you for your courtesy and your consideration.