

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTIONS

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

3:30 a.m./p.m. on February 25, 1991 in room 527-S of the Capitol.

All members were present except: Representative Joan Adam, Excused.

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

Conferees appearing before the committee: Representative J. C. Long  
Grant Brooks, Legal Counsel, Kansas Banking  
Department

The Chairperson opened the meeting and announced that some bills had been requested for introduction.

Representative Gross moved and Representative Roy seconded to accept as a committee bill requested by the Kansas State Treasurer regarding investment of public moneys; providing for the municipal investment pool fund; investments; and requirements. The motion carried.

Representative King moved and Representative Johnson seconded to accept as a committee bill requested by the Securities Commissioner relating to securities, increasing the fee for an application or filing for any exemption from securities registration and change ceilings of the filing fee. The motion carried.

Representative Shallenburger moved and Representative Teagarden seconded to accept a bill requested to prohibit the imposition and collection of certain fees for the cashing of certain checks and state warrants. The motion carried.

Representative Graeber moved and Representative Long seconded to accept a committee bill to bar credit doctors; legislation to stop that practice in this state. The motion carried.

The Chairperson opened the hearing on HB 2250, an Act relating to banks and banking; concerning examinations, providing for exit review.

Representative J. C. Long was the first conferee, stating this bill amends the statute on banking examinations to require exit review for all banks by the examination team that conducts such examinations. This bill allows for accurate minutes to be kept and providing for, if the board of directors deems necessary, recording the minutes by a shorthand reporter. (See Attachment #1).

The next conferee was Grant Brooks, Legal Counsel, Kansas Banking Department, testified this requirement makes no sense as the banking department's basic core responsibility is to give the bank a copy of the examination; not to do so would render the Commissioner's job useless. This is a requirement by the federal government to perform an exit review. (See Attachment #2).

Representative Graeber stated that a mandatory exit review is an excellent requirement and should be mandated.

The hearing was closed on HB 2250.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTIONS,  
room 527-S Statehouse, at 3:30 ~~xx~~m./p.m. on February 25, 1991.

The Chairperson opened the hearing on HB 2251.

Representative Long testified in favor of HB 2251, stating this bill would permit the state bank commissioner to report conditions of the Kansas economy, the health of Kansas banks by out-of-state banks and other pertinent information. (See Attachment #3).

Grant Brooks, Legal Counsel, Kansas Banking Department, opposed HB 2251 stating that K.S.A. 9-1704 requires banks and trust companies to publish at least 3 reports annually that detail the resources and liabilities of the bank or trust company. The Kansas Banking Department gives this information without a law. (See Attachments #4 and 4A.)

The Chairperson closed the hearing and stated that final action would be taken on both HB-2250 and 2251 on March 4, 1991.

Representative Shallenburger moved and Representative Dillon seconded to amend HB 2378 as follows: Page 1, line 22 - Change "or" to "of". On Page 2, line 40 - correct spelling of "conection" to "connection" and on Page 4, line 25, remove the word "not" and on line 26 add "additional". The motion carried.

Representative Long moved and Representative Graeber seconded on Page 1, line 22, to strike all remaining language after the word "money".

After discussion, Representative Long moved and Representative Graeber seconded their motion be withdrawn. The motion carried.

Representative Graeber moved and Representative Roper seconded that HB 2378 be moved out favorably as amended. The motion carried unanimously.

The Chairman asked the Committee what their wishes were for final action on HB 2355.

Representative Shallenburger moved and Representative Cates seconded that lines 16, 17, 35, and 36 be amended as follows; "All credit unions in the state of Kansas are eligible for membership" be deleted. The motion carried.

Representative Cates moved and Representative Roy seconded to amend Page 2, line 5, to "24" from "36". The motion carried.

Representative Roy moved and Representative Roper seconded to amend Page 2, line 15 to strike everything after "process" down thru line 25. The motion carried.

Representative Roy moved and Representative Minor seconded to amend Page 1, to divide sub-section a. insurance and type of insurance and b. convert, have to merge, consolidate or liquidate; must provide insurance for their share. The motion carried.

Representative Roy moved and Representative Cates seconded that HB 2355 be passed out as amended. The motion carried.

The Chairperson stated the next meeting would be March 4, 1991.

The meeting adjourned at 4:45 P.M.

Date: 2/25/91

GUEST REGISTER  
HOUSE  
COMMERCIAL & FINANCIAL INSTITUTIONS COMMITTEE

| NAME                  | ORGANIZATION               | ADDRESS      |
|-----------------------|----------------------------|--------------|
| Greg Winkler          | KCUA                       | Topeka, KS   |
| Michael D. Culbertson | Kansas Credit Union League | Wichita, Ks. |
| Dail Kesson           | KSDCU                      | Lawrence, Ks |
| Wayne Warfel          | KSDCU                      | TOPEKA, KS   |
| Joe Newby             | KSDCU                      | ALMA, Ks.    |
| Mike Heitman          | Ks. Banking Dept.          | Topeka Ks    |
| W. Newton Male        | " " "                      | " "          |
| Scott Brooks          | " " "                      | " "          |
| Diane Nightingale     | Nexan Bell Credit Union    | Topeka Ks    |
| Zoe Shelby            | " " " "                    | " "          |
| Marky Duffin          | Ks Bankers Assn            | Topeka       |
| Church Stone          | " "                        | "            |
| Jim May               | "                          | "            |
| K Peterson            | McGrill & Assoc.           | "            |
|                       |                            |              |

# STATE OF KANSAS

J. C. LONG  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED FIFTH DISTRICT  
Harper, Barber,  
Kingman and Sumner Counties



TOPEKA

HOUSE OF  
REPRESENTATIVES

## TESTIMONY ON HOUSE BILL 2250 AND HOUSE BILL 2251

COMMITTEE ASSIGNMENTS  
MEMBER: COMMERCIAL AND FINANCIAL INSTITUTIONS  
FEDERAL AND STATE AFFAIRS  
TAXATION  
LEGISLATIVE JUDICIAL AND  
CONGRESSIONAL APPORTIONMENT

MR. CHAIRMAN:

House Bill 2250 amends the statute on banking examinations to require exit review for all banks by the examination team that conducts such exams. This bill also allows for accurate minutes to be kept while also providing for, if the board of directors deems necessary, the keeping of these minutes by a certified short-hand reporter.

Currently, regulations provide that exit reviews, which is a review of the banks examination with the banks board of directors, may be held by the examining agency for all banks, but must be held if the bank has a C.A.M.E.L. RATING of 3 or worse. (Banks are rated on a scale of 1-5 with a 1 rating being the best and a 5 rating being close to failure. C.A.M.E.L. is an acronym used by bank regulators for their review and ratings system. C designates capital, A = assets in the banks portfolio, M = management of the bank, E= earnings of the banks assets and L is liquidity.) House Bill 2250 requires that the a review examination be held with all banks and their boards of directors.

In my 10 years as a member of a board of directors and my seven years serving on this committee, I have discovered that these exit reviews are extremely helpful in guiding and setting sound bank policy. These meetings allow for interaction between the bank board and the examination team. It allows the bank board to understand the banks rating, why a bank is rated in this manner and provides the bank board to further develop a working and constructive relationship with the regulatory agency.

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225-91  
CFU  
Atch # 1

Testimony

before

The House Committee on Commercial  
and Financial Institutions

by Conferee:

Grant L.C. Brooks, General Counsel  
Kansas Banking Department

The State Banking Department has serious concerns on both House Bill 2250 and 2251. House Bill 2250 amends K.S.A. 9-1701 by requiring the Commissioner provide the bank a copy of their examination report or the examination report of the federal agency.

This requirement makes no sense. First, it takes a quantum leap in logic to assume that the Banking Department would not supply its examination report to the state bank. How else would the bank know of its condition? Its a basic core responsibility to give the bank a copy of the examination; not to do so would render the Commissioner's job useless. More importantly, if adverse administrative action was to be taken, the U.S. Constitution requires that any entity be informed of the basis for any adverse action taken upon them. Second, House Bill 2250 requires the Commissioner to give the bank a copy of the federal agency's examination report. The disclosure of such document is prohibited by federal law; specifically, 12 CFR, Section 309.6, which prohibits disclosure of FDIC examination reports. Furthermore, the bank will already have a copy of this examination report from the FDIC. To make this amendment law would place the Commissioner under a state mandate to violate federal law.

The other provision of House Bill 2250 mandates the Bank Commissioner conduct an exit review meeting. An exit meeting is a courtesy given to the bank's Board of Directors. It is this department's decision whether to hold an exit meeting -- not the bank's. An exit meeting is used as an

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educational tool to inform bank management of the tentative findings of an examination and to suggest ways of improving bank management skills. I cannot help question Mr. Long's personal motives for introducing this particular requirement into K.S.A. 9-1701. In a particular situation which Mr. Long may be familiar with, this department was, and is, involved in a multi-million dollar litigation with a particular financial institution. At the conclusion of the examination the bank owner wanted to tape record the exit review meeting. I directly corresponded with this particular banker and informed him that this department had no objection to any meeting being transcribed by a certified shorthand reporter. However, tape recordings and "accurate minutes" are subject to alteration. House Bill 2250 merely states accurate minutes shall be kept. Are these minutes to be taken by the state or by the bank? If it is the intention of this amendment to turn an exit meeting into an adversary meeting, then the State Banking Department would request the committee amend House Bill 2250; to mandate all exit meetings be recorded by a certified shorthand reporter. That is the only way to ensure an accurate record of those meetings is kept. Otherwise, this amendment should be deleted.

So, in conclusion, the State Banking Department has serious objection to the amendments proposed in House Bill 2250. First, the law does not need to require the Commissioner give a copy of an examination report because this is a core responsibility of the Commissioner's job and the Constitution requires, before somebody is deprived of a property right, that they are given due process and informed of the findings against them. Second, the proposed amendments require the State Bank Commissioner disclose documents that are not his to disclose; a prohibition that is created by federal law. Finally, this bill wants to mandate exit review meetings which are used merely as an educational tool. The amendment by its implications, shall turn these educational meetings into adversarial meetings. If this is the intent,

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then the State Banking Department requests the bill be changed to require every exit meeting be recorded by a certified shorthand reporter. Or alternatively, House Bill 2250 be tabled.

## HOUSE BILL 2251

House Bill 2251 requires the state bank commissioner to submit a comprehensive report to the standing committees of the house and senate on commercial and financial institutions.

This bill would permit the state bank commissioner to report conditions of the Kansas economy, the health of Kansas banks, the purchase of Kansas banks by out of state banks and other pertinent information. (State averages on loan to deposit ratios, state average on the capital structure of banks and current economic changes that may have an adverse or positive effect on the banking climate in Kansas.)

Currently, no statute speaks to this issue. We have the Kansas Water Office submitting reports on the status of the Water Plan; Department of Education on educational issues and other state agencies that report on their regulatory actions.

I do not want (and state law prohibits disclosure of) confidential records records that will harm a bank or compromise its confidentiality.



Testimony

before

The House Committee on Commercial  
and Financial Institutions  
by Conferee:

Grant L.C. Brooks, General Counsel  
Kansas Banking Department

The State Banking Department has concerns on House Bill 2251. This bill requires the Commissioner submit a "comprehensive report . . . detailing the financial condition of state banks and trust companies". Our problem is what exactly is this bill requiring? As the committee members know, detailed financial information concerning state banks and trust companies is confidential information. K.S.A. 9-1704 already requires banks and trust companies to publish at least 3 reports annually that detail the resources and liabilities of the bank or trust company. Additionally, banks have to prepare Consolidated Reports of Condition and Income in compliance with federal law. These reports are public information under the Freedom of Information Act. Therefore, as the committee can see, there is already a large amount of financial information available to the public and to the legislative bodies. The State Banking Department's question is, Does House Bill 2251 require a mere compilation of this information, or does it require more than that? Is the comprehensive report going to be a mere statistical analysis of state banks? The language of 2251 is so broad and encompassing that the State Banking Department needs more direction concerning the exact content of this report. The State Banking Department would request an amendment that states information for this report be taken from the Consolidated Reports of Condition and Income that are required to be published under K.S.A. 9-1704.

Additionally, this bill contains no deadline requirements concerning when the report needs to be filed. This should be in the bill to ensure the

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legislature's timely reviews of the report. Without these changes, the department requests this bill be tabled because it does not sufficiently define the responsibilities it attempts to place on the department.

Thank you for your time and consideration.

