

Approved: March 19, 1997  
Date

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS.

The meeting was called to order by Chairperson Ray Cox at 3:30 p.m. on March 13, 1997 in Room 527-S of the Capitol.

All members were present except: Representative Tom Bradley  
Representative Larry Campbell  
Representative Bob Grant

Committee staff present: Bill Wolff, Legislative Research Department  
Dennis Hodgins, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Maggie Breen, Committee Secretary

Conferees appearing before the committee: Larry Tucker, Reno County Treasurer  
Willie Martin, Sedgwick County - Intergovernmental Relations  
Barkley Clark, Commerce Bank, Kansas City, Missouri  
JoLana Pinon, Assistant State Treasurer  
Chris McKenzie, Kansas League of Municipalities  
SueAnn Schultz, Bank IV  
Jim Maag, Kansas Bankers Association  
Bill Schlobahm, Citizen's State Bank, Osage City  
Steve Handke, Community Bankers Association

Others attending: See attached list

The chairman opened the hearing on:

**Sub for SB 86 - Deposit of public moneys, depositories**

Proponents appearing in favor of **Sub for SB 86**:

**Larry Tucker**, Reno County Treasurer, asked the committee to vote in support of **Sub for SB 86**. 1) Local bids for public funds are usually competitive. 2) Even branch offices generate economic growth by hiring employees and investing dollars into the local community. 3) The legislature has already put in place the ability for non-state chartered banks to open branch offices in Kansas. (Attachment 1)

**Willie Martin**, Sedgwick County - Intergovernmental Relations, representing the Sedgwick County Board of Commissioners spoke in support of the bill. When Sedgwick County solicited proposals from area financial institutions to provide banking services in August 1996, only one response was received. Other banks indicated they could not fulfill the statutory requirements for collateralizing deposits at certain times of the year. Banks chartered in Kansas large enough to meet their needs are dwindling. Without this bill, they would have to split deposits and contract with several banks which would be time consuming, complicated and costly. She requested the committee's support of **Sub for SB 86**. (Attachment 2)

**Barkley Clark**, Commerce Bank - Kansas City, Missouri, appeared in favor of **Sub for SB 86**. Commerce Bank has branches in Kansas and because of current Kansas law, relating to public funds, they are not allowed to compete. He pointed out two legal issues. The first issue is that current Kansas Public Funds Law is unconstitutional because it conflicts squarely with federal law. The second legal issue is that the public deposit statutes are out of phase with changes the Kansas legislature made last year on perfecting security interests in various types of investment securities. **Sub for SB 86** is drafted to solve these problems and should be enacted for this reason alone. It is good progressive legislation. (Attachment 3)

**JoLana Pinon**, Assistant State Treasurer, spoke in favor of **Sub for SB 86**. The State Treasurer's Office believes it to be good public policy. The competition it would provide is good at the state and local level. They are especially interested in the state level as it relates to the states' checking account. Since 1991 they have had 3 RFP's. All 3 times there were only 2 willing and able players who stepped up to the table. One of those has consistently been Bank IV; one of the entities that would be impacted by this legislation. They have a large account, running between \$10 - \$12 billion through their checking account on an annual basis, having about 4 million warrants a year and doing about 60% of their commerce electronically. They need willing and able players to provide them competition. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS, Room 527-S  
Statehouse, at 3:30 p.m. on March 13, 1997.

**Chris McKenzie**, Kansas League of Municipalities, urged favorable action on Sub for SB 86. The bill is not about BANK IV, or any particular bank. It's about creating an environment in which there is healthy competition for the deposit of public funds. These funds are managed by local units in trust on behalf of the taxpayers of Kansas. (Attachment 5)

**SueAnn Schultz**, Bank IV, appeared in favor of Sub for SB 86. The 3 primary arguments of the bill's opponents are lack of reinvestment in the community, loss of control, and loss of tax revenues. Included in her written testimony are significant facts and figures that demonstrate Bank IV's investment in the state of Kansas in terms of loans, contributions, and taxes. That will not change as they become NationsBank tomorrow. The bank's CRA rating, which they are committed to maintain, is determined by lending within the local community - where they have offices, not where they have a charter. Loss of control is not an issue either, it's not gained or lost by this bill. Last year Kansas passed apportionate legislation which was recommended by the multi-state tax commission as being the most fair way of taxing financing institutions that are operating in a multi-state environment. The bill is about competition. Protectionist legislation never works. (Attachment 6)

Proponents submitting written testimony in favor of Sub for SB 86:

**Douglas Hickman**, Pony Express Bank (Attachment 7)  
**John Peterson**, Ks Association of Community Colleges (Attachment 8)  
**Fred Kaufman**, Superintendent of Hays School District (Attachment 9)  
**Thomas Bell**, Kansas Hospital Association (Attachment 10)  
**Kristy Cannon**, City of Overland Park (Attachment 11)  
**Norm Wilks**, Kansas Association of School Boards (Attachment 12)

Opponents appearing in opposition to Sub for SB 86:

**Jim Maag**, Kansas Bankers Association spoke in opposition to Sub for SB 86. There is a significant need in Kansas communities for public funds as part of the deposits base. Can those public funds be sustained in the communities if they are allowed to be drained off for other purposes? Currently 41 of the 105 counties have within their borders a branch of an out-of-state bank, S&L or savings bank. In half of those counties, it's an out-of-state S&L or savings bank. In these instances, the money is not being reinvested in the community. As to the constitutionality of the public fund deposit law, last year the attorney general of the state of Kansas, in AG Opinion 9595, ruled that the legislature does have the authority as state government to set the standards as to how public funds can be invested. It is a constitutional right under both the federal and state constitutions. The legislature has not, at this point, specified the right of an out-of-state bank to establish a branch office in the state of Kansas. The branches which are here today are the result of a ruling of the Comptroller of the Currency which controls national banks. It allows them to move across the state border within a 30 mile range of their home office. (Attachment 13)

**Bill Schlobahm**, Citizen's State Bank, Osage City, appeared in opposition to Sub for SB 86. His bank is small, a little over \$40 million, in a county of about 17,000. In the last 2 years their public funds has increased over 40% and their loans over 50%. They are reinvesting the funds back into the community. He sees the potential for funds to flow out of state or away from under-developed areas should this bill pass. He also posed two questions. At what point does the value of a Kansas Bank Charter cease to exist? Why do we not have out-of-state banks willing to keep a charter in Kansas? (Attachment 14)

**Steve Handke**, Community Bankers Association, spoke in opposition to Sub for SB 86. It's hard to overemphasize the importance of the supply of money to economic growth. Local units of government proponents of the bill say that without competition they will not earn a market rate of return. The Pooled Money Investment Board was created precisely for that reason. Branch banking is in essence a conduit or pipeline for management and the flow of funds. Every bank can have only one CEO and one ultimate board with command and control. (Attachment 15)

Opponents submitting written testimony in opposition to Sub for SB 86:

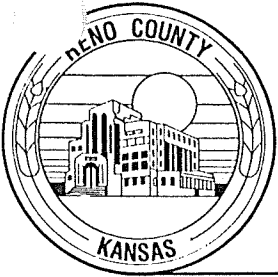
**Gary W. Cotterill**, First State Bank - Edna (Attachment 16)

The chairman closed the hearing on Sub for SB 86.

Meeting adjourned at 4:25 p.m.

The next meeting is scheduled for March 18, 1997.





County Treasurer

RENO COUNTY  
206 W. 1st Ave.  
Hutchinson, KS 67501-5245  
(316) 694-2938  
TDD: Kansas Relay Center 1-800-766-3777

PROPONENT - SENATE BILL 86  
TESTIMONY

TO : LES DONAVON, CHAIRMAN AND MEMBERS OF  
HOUSE FINANCIAL INSTITUTIONS COMMITTEE

FROM : LARRY TUCKER, RENO COUNTY TREASURER

Good afternoon. My name is Larry Tucker, Treasurer of Reno County. I come before you today to speak as a proponent of Senate Bill 86, relating to changes in current statutes for designating public fund depositories.

As I understand the proposed legislation, this bill would allow Kansas municipalities the option to approve official depositories that have either a main or branch office within their taxing district. This would give municipal officers the option to invest public funds into either federal, state or non-state chartered financial institutions that operate within Kansas.

I support this legislation for the following reasons:

1. Local bids for public funds are generally competitive. Most financial institutions will review their loan demand and current operations within their community and offer investment rates to attract public dollars. Eliminating non-Kansas chartered banks reduces options to public investors and in turn reduces the competitive nature of attracting bids.

In Reno County, it has been only recently that financial institutions have become more competitive in bidding for public dollars. Much of this has been attributable to loan demand, competition from other banks and the Kansas municipal investment pool.

By not having the option to invest in a branch office of a bank outside your tax district, this will take the pressure off of other local institutions to continue to be competitive. This is especially true in smaller counties that have few depositories to choose from. In the end, because less competition means less non-tax revenues, the local taxpayer loses, as either taxes must be raised or services cut to make up the difference.

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*Attachment 1*

2. Even branch offices generate economic growth by hiring employees and investing dollars into the local community. Although, the profits of such banks may go to outside investors, the dollars they return into the community are significant.

In Reno County alone, Nations Bank - Bank IV, which is a non-Kansas chartered bank, has 60 employees making up a payroll of over \$ 1.8 million dollars. In addition, they have commercial and personal loans made to the Reno County area that total over \$ 150 million dollars.

This is an example of how with public dollars, investments can be made in local communities, which in turn returns money to its citizens.

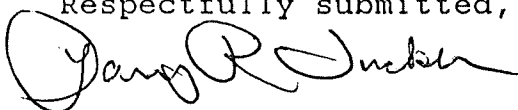
3. The legislature has already put in place the ability for non-state chartered banks to open branch offices in Kansas. This in it self has opened the door for financial institutions to become more competitive and to improve their services to all Kansas customers.

Those who serve as custodians of public tax dollars should also have access to these services regardless of the home office location of the institution.

I challenge the legislature to put outdated thinking to rest that create unfair advantages against those who invest money into our state. Restrictions against certain public depositories are both outdated and no longer necessary. Modern times call for modern legislation.

For these reasons, I ask that this committee vote in support of Senate Bill 86 and give public officials and finance officers the modern tools necessary to invest and return non-tax revenues to the taxpayers of Kansas.

Respectfully submitted,



Larry R. Tucker  
Reno County Treasurer



SEDGWICK COUNTY, KANSAS

INTERGOVERNMENTAL RELATIONS

WILLIE MARTIN

COUNTY COURTHOUSE • 525 N. MAIN • SUITE 315 • WICHITA, KANSAS 67203 • TELEPHONE (316)383-7552

TO: House Committee on Financial Institutions  
FROM: Willie Martin  
DATE: March 13, 1997  
SUBJ: Senate Bill 86 - Deposit of Public Moneys

Sedgwick County respectfully requests your support of Senate Bill 86.

In August 1996 Sedgwick County solicited proposals from area financial institutions to provide banking services. We received only one response to our Request for Proposal document. Other banks indicated they could not fulfill the statutory requirements for collateralizing deposits in our bank account at certain times of the year due to large tax distributions to the other taxing entities in Sedgwick County. With the ever changing banking industry, banks chartered in the State of Kansas large enough to meet our needs are dwindling.

Without the provisions of SB 86, Sedgwick County would be required to split deposits to meet collateralizing requirements, thus compelling us to contract with multiple banks. This, in turn, would make tax distributions and the investment of idle funds time consuming and complicated, increasing cost and restricting our ability to provide effective and efficient service to the citizens of Sedgwick County.

We currently require and utilize the following services:

1. Receipt & transfer of securities held as collateral. (Volume & Size Significant)
2. On-line balance reporting of various accounts.
3. Next day electronic transmission listing checks cleared for automatic reconciliation.
4. Lock-box Processing
5. Automated bank wiring capabilities.

Our capability to provide service is dependent upon our ability to require and receive specific services for money management.

We respectfully request your consideration of our concerns.

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Attachment 2

M E M O R A N D U M

TO: KANSAS HOUSE FINANCIAL INSTITUTIONS COMMITTEE  
FROM: BARKLEY CLARK  
DATE: MARCH 13, 1997  
RE: SENATE BILL 86

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Mr. Chairman and members of the Committee:

My name is Barkley Clark. I am representing Commerce Bank, N.A., a national bank headquartered in Kansas City, Missouri but with branches in a number of Kansas towns. I am an attorney practicing with the firm of Shook, Hardy & Bacon in Kansas City and Overland Park. I am also an adjunct professor of banking law at the KU Law School and a former Mayor of Lawrence, Kansas. I have appeared before this committee and others many times over the last 25 years in connection with various aspects of banking and commercial law legislation in Kansas. In fact, I have served as a special consultant to the Kansas Legislature on the Uniform Commercial Code, the Uniform Consumer Credit Code, and the Kansas Consumer Protection Act. I am here today to speak in favor of Senate Bill 86, which is now before you.

I will not spend a lot of time on the public policy arguments in favor of SB 86, such as the need to expand the number of financial institutions eligible to serve as depositories and custodians of public funds for a huge variety of Kansas local governmental units; the need to give public entities greater flexibility in placing their deposits and choosing custodians for their funds, particularly at peak times of tax collection and revenue transfers; how it is counterproductive and anti-competitive to limit the number of banks eligible to take public funds when the branch of the bank is otherwise fully qualified to do business in the state of Kansas; how it is overly restrictive to preclude such banks from taking public deposits based on where the bank is chartered, when we live in a world of electronic banking and mergers; how the current law discriminates against national banks; how current law hurts taxpayers by not allowing public entities to

get the best interest rate on their deposits; how it violates the basic principle of free and open competition; and how Kansas is perhaps the only state in the country with this sort of public funds restriction. Instead I want to talk briefly about two legal issues that are critical in evaluating SB 86.

Legal Issue #1--Federal Preemption. In my opinion, you should pass SB 86 because current Kansas law, as found in KSA 9-1401 and related statutes, violates the Supremacy Clause of the United States Constitution insofar as it is preempted by federal banking laws. Although there is no judicial decision directly on point yet, it seems clear to me and many others that the current Kansas law is unconstitutional, and SB 86 would cure that defect. Under federal banking law, particularly 12 USC §36(f)(2), state laws must apply to branches of national banks (wherever headquartered) to the same extent they would apply to national banks headquartered in Kansas. Similarly, in 12 USC §1831u(a)(4)(B), national bank branches created by interstate mergers must be treated as banks "the home State of which is the State in which the branch is located." Read together, these two provisions make it clear that a Kansas branch of a national bank located outside Kansas can't be discriminated against. That makes sense, because the location of a bank's charter or its "headquarters" is irrelevant to modern banking practices. Yet the public funds statutes do exactly that--discriminate against national banks headquartered outside the state of Kansas. Passage of SB 86 will avoid needless litigation on this issue. It is hard to think of any other area in which Kansas legislation is so blatantly discriminatory against institutions which are qualified to do business in the state, pay Kansas taxes, and employ Kansas people. KSA 9-1401 and the related states are nothing more than a relic of old days when interstate banking was not even a blip on anybody's radar screen. KSA 9-1401 was enacted 50 years ago, in 1947, when there was no interstate banking. The time has come to bring Kansas law up to date. The current public funds law is an insult to our dual banking system. As far as I can tell, Kansas is the only state in the nation that has such a discriminatory law governing public deposits. We are way out of step with the times.

Legal Issue #2: Perfection of Liens. SB 86 also contains provisions that are very important to insuring that liens given to public entities who make deposits of tax collections, etc. are fully protected should the bank fail. Under both federal and



Kansas law, banks must put up collateral, in the form of their US Treasury securities, to protect deposits of public entities. Perfecting a security interest in Treasury securities, that will stand up if the bank goes down, is a very tricky legal business. Both banks and their public entity customers have a strong interest in assuring that these security interests are properly perfected. Current Kansas law on this issue is out of phase with changes the Kansas legislature made last year on perfecting security interests in various types of investment securities. Last year you enacted comprehensive amendments to Articles 8 and 9 of the Uniform Commercial Code that establish guidelines for perfecting such security interests. Unfortunately, Kansas public deposit statutes contain concepts and language which do not dovetail with the new UCC provisions, creating a risk of nonperfection. For example, new Article 8 of the UCC recognizes that Treasury securities are held in an "indirect" system of custodians; KSA 9-1401 is drafted with a "direct" holding system in mind. The two simply don't mesh. This is a very technical area of the law and one in which the two sets of statutes need to dovetail. SB 86 is carefully drafted to solve these problems and should be enacted for that reason alone.

Members of the Committee, thank you for hearing me out on these issues. SB 86 is good, progressive legislation, and deserves to be enacted into law.



STATE OF KANSAS

900 SW JACKSON, SUITE 201  
TOPEKA, KANSAS 66612-1235

**Sally Thompson**  
TREASURER

TELEPHONE  
(913) 296-3171

**Testimony of State Treasurer Sally Thompson  
Substitute for SB 86  
House Financial Institutions Committee  
Thursday, March 13, 1997**

Chairman Cox and Members of the Committee:

Thank you for this opportunity to present written testimony to this committee in regard to the substitute for SB 86, which proposes to clarify and modify the state's laws in regard to public funds issues on the local level. The State Treasurer's office supports equal opportunity and open competition for all banking services at all levels of government.

The state's operating account is an issue to consider. The State Treasurer's office recently awarded UMB Bank Kansas the contract for the state's operating account. Only two banks-- UMB Kansas and Bank IV--expressed interest in managing the state's banking business. Under current law, Bank IV or any other institution without a home office in Kansas would not be eligible to submit another bid to be the state's banking partner, leaving UMB Kansas as the only one interested in the volume of work produced by the state. Substitute for SB 86 opens the process to any bank that is large enough to service the state's account and has a home or branch office in Kansas.

This account consists of approximately four million warrants per year and approximately \$10 to \$12 billion in receipts. This operating account can peak as high as \$75 million on certain days, all of which must be insured and/or collateralized by a pledge of the same value in securities.

The State Treasurer's office recognizes the changing face of banking in this country. We urge you to weigh the effect of any changes on all public funds.

Thank you for your consideration.

*House Financial Institutions*  
*3-13-97*  
*Attachment 4*



**League  
of Kansas  
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 300 S.W. 8TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

**TO:** House Financial Institutions Committee  
**FROM:** Chris McKenzie, Executive Director  
**DATE:** March 13, 1997  
**SUBJECT:** Support for Sub. for SB 86

Thank you for the opportunity to appear today on behalf of the 529 member cities of the League of Kansas Municipalities in support of Sub. for SB 86. The substance of Sub. for SB 86 was discussed recently by the League's Finance and Taxation Policy Committee, and the views I am expressing today have been endorsed by that committee as well as by the League's 15-member governing body.

**The Policy Question.** The basic policy question underlying Sub. for SB 86 is whether there will be open and free competition for the deposit and investment of the active and idle funds of the taxpayers of Kansas which are held in trust by the political subdivisions of the state of Kansas. The member cities of the League, which collectively deposit and invest hundreds of millions of public funds each year, respectfully urge you to clearly open the door to allow branches of banks, savings and loans, and savings banks which do not have home offices in Kansas to act as depositories and third party custodians of securities pledged to secure the deposit of public funds.

**Background.** A few months ago, after the acquisition of BANK IV by an out-of-state banking institution, the League began to be asked by city officials about the apparent restrictions in state law against the deposit and investment of public funds in banks which do not have a home office in Kansas. We reviewed the applicable statutes, as well as the two excellent Attorney General Opinions on this subject (NOS. 95-39 and 95-95), and we concluded that such a restriction did exist, although some arguments to the contrary may be made. In the process we also rediscovered that the only statutory penalty for ignoring this prohibition was personal liability for the public officials responsible for such funds in the event of a failure or default of any designated depository financial institution. This penalty is in K.S.A. 9-1406, which is amended in Section 7 of Sub. for SB 86 (page 11). Given the prospect (however remote) of such liability, we sent out a broadcast FAX, reminding our members of the requirements of state law and the potential personal liability they faced for depositing public funds in institutions which did not meet the requirements of state law.

**Competition for Public Funds.** The main purpose of Sub. for SB 86 is to eliminate the home office restrictions contained in current state law and increase competition for the deposit of public funds. We strongly believe such competition is desirable in order to ensure a reasonable rate of return on public fund deposits and investments. As you know, every dollar of interest returned or reduced administrative cost for handling an account translates into lower property taxes in the long run. While interest return should never be the primary objective of the investment of public funds, it should not be ignored. We submit that Sub. for SB 86 protects the interests of the Kansas taxpayer better than the status quo.

**RECOMMENDATION:** Sub. for SB 86 is not about BANK IV or any particular bank. It is about creating the environment in which there is healthy competition for the deposit of public funds which are managed by local units in trust on behalf of the taxpayers of Kansas. We urge favorable action on Sub. for SB 86.

*House Financial Institutions*  
3-13-97  
Attachment 5

## HOUSE FINANCIAL INSTITUTIONS COMMITTEE

Testimony of SueAnn V. Schultz,  
Senior Vice President, General Counsel, BANK IV

Senate Bill 86

3-13-97

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to address you today. I am SueAnn Schultz, Senior Vice President and General Counsel for BANK IV. I appear before you as a proponent of Senate Bill 86.

Existing public funds legislation was, and is, intended to insure that taxpayer money be held by financial institutions that are safe, sound and known to Kansans. Beyond these core values, the intention of the law is to assure that the institutions acting as depositories and service providers are responsible and responsive to serving the needs of the Kansas taxpayers whose money those funds represent. By design, it is intended that those eligible financial institutions have a vested interest in Kansas by virtue of their investment in facilities, human resources and capital. All of these investments guarantee that these depositories be fully participatory in the Kansas economy, both in support of commerce and as Kansas taxpayers.

The placement of public funds is essentially a competitive bid process. This process has worked effectively to insure that the public funds received the highest competitive interest rates and that the fees for services were at their competitive lowest. This system has been the most effective when there are more *qualified and interested* bidders. This bill, as amended, allows all financial institutions with offices where public entities are located, to competitively bid on public deposits, thereby saving taxpayers' money.

Since 1887 BANK IV has been providing service to the taxpayers of Kansas by being a *qualified and interested* bidder on public funds. In 1996, we maintained in excess of 400 public accounts containing more than \$200 Million. Notwithstanding the competitive bid process, BANK IV has been in bid situations where we were the only *qualified and interested bidder*, and our preclusion from participation in the bid process would result in public funds customers having fewer *qualified and interested* financial institutions bidding for their funds. Further, BANK IV currently provides custodial safekeeping services to 96 Kansas banks, because existing law requires that securities pledged for public funds be held by a financial institution that has adequate modern facilities for the safekeeping of securities and that is not affiliated in any way with the depository institution holding the public funds.

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*Attachment 6*

On October 18, 1996, we made a corporate decision to merge our Kansas chartered bank with our affiliate bank in Kansas City, Missouri. Charter consolidation allows seamless banking service across all geographic areas and enables BANK IV to better serve our customers who live and work across state lines. None of the public funds deposits left the state, no banking locations were closed and there were no changes to services or fees.

But for the location of the charter, BANK IV unquestionably meets the intent of existing public funds legislation. We still have an executive management office in Wichita. As the largest bank in Kansas, we pay more privilege, real estate and personal property taxes than any other bank in this state (in excess of \$10,600,000 in 1996). We employ more than 2,090 people in Kansas who also pay property and personal income taxes, and the 1996 payroll of BANK IV exceeded \$52,000,000. In 1996, BANK IV provided financing in excess of \$492,000,000 to small businesses and farms, mortgage loans exceeded \$82,000,000, our Loan to Deposit ratio was 70.4% and our total Loan to Asset ratio was 56.8%. With 87 branches in 36 communities in Kansas, we have invested in excess of \$130,000,000 in banking facilities throughout the state.

BANK IV's financial reinvestment in the state of Kansas is further demonstrated by its \$1,412,308 capital investment in Kansas Venture Capital, Inc. (the Kansas statewide risk capital organization created to provide capital for investment in smaller Kansas businesses), making BANK IV the largest shareholder in KVCI.

Each bank operating in Kansas, no matter where the charter is located, must meet the requirements of the Community Reinvestment Act for serving its community's credit needs. BANK IV's most recent CRA rating was the highest given by the Office of the Comptroller of the Currency: **Outstanding**. This rating is based on the OCC's objective review of BANK IV's performance in reinvesting dollars, time and talent back into the local markets served by BANK IV. In 1996, BANK IV contributed \$1,448,000 to various Kansas charitable organizations and provided \$5,836,000 for community events throughout the state, such as Dodge City Days and the Kansas State Fair.

The recent acquisition of BANK IV's holding company by NationsBank Corporation will not change the level of BANK IV's involvement in the state. The recently announced NationsBank National Call Center, a \$10,000,000 project that will create in excess of 400 new jobs in Wichita, is an example of the focus by NationsBank on investment in and return to the communities it serve.

BANK IV's proven track record is one that I am proud to present and demonstrates that the location of a charter does not define what an organization does or its level of commitment to a community or state. Each financial institution with an office in this state has made a commitment to invest time, energy and capital resources to improve its community and should be entrusted with the privilege of competing for the right to serve as a depository for public funds. We ask that you adopt Senate Bill 86.

Thank you for your attention. I would be happy to address any questions you may have.



# PONY EXPRESS COMMUNITY BANK

MEMBER FDIC

March 10, 1997  
By FAX to (913) 368-6365

To:  
Chairman Les Donovan  
Kansas House Financial Institution Committee  
Capitol Building  
Topeka, Kansas

Re: Sen. Bill No. 86  
--Public Funds to be held by Kansas institution

Chairman Donovan and Committee Members:

**Background:** Our financial institution is a small community bank with approximately \$20 million in deposits. The home office is located in St. Joseph, MO with two branches located in Elwood, Ks. in Doniphan County and Lucas, Ks. in Russell County.

In August, 1995, the holding company for First State Bank, Elwood, Ks. acquired ownership of The Farmers State Bank, Lucas, Ks. In January 1996, the two banks were merged and the home office moved from Elwood, Ks. to St. Joseph, Mo. Branches were simultaneously located in Elwood and Lucas.

In Lucas and Elwood, each of our branches is the only financial institution located in their respective City.

**Issue:** An inadvertent result of the above action was that the Kansas branches could no longer legally hold public funds as bank deposits. In early 1996, this Bank voluntarily informed the respective governing bodies of the local municipalities of the change in order to permit them to conform with Kansas law.

The impact of the law affected tax-supported funds of the city, county library, cemetery, townships, and school district. Some of these entities had several accounts with our Bank. After consultation with their legal counsel and auditing firms action was taken by the governing bodies to move their public funds out of town to a bank with a home office located in Kansas.

In the case of the City of Lucas, the bank was located 10 miles away to a branch of United Missouri Bank which does have a home office chartered in Kansas.

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Attachment 7

The branch locations in Elwood and Lucas do in fact pay ad valorem taxes on the bank facility and also employ local persons to operate the facilities just as any other Kansas chartered bank does.

The City Clerk and City Treasurer are parttime positions for Lucas (pop. 500) and the results of the above-described Kansas law has created significant inefficient work and extra time to complete their daily and periodic tasks.

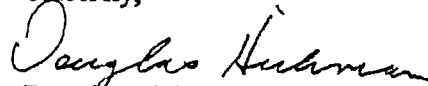
With the changes in banking described above, the City in particular has been negatively affected in the following specific ways:

- 1) Additional personnel time to mail deposits and conduct banking business out of town;
- 2) Additional postage cost and telephone expense to conduct banking business;
- 3) Substantial modifications required in City recordkeeping and computer operations to account for the transactions of two bank locations;
- 4) Additional personnel time to monitor and reconcile two bank statements instead of just one;
- 5) Additional personnel time to prepare monthly reports for City records including budget analysis and City Council management reports to include the new out of town accounts;
- 6) Additional annual auditing expense and procedures to include verification and transactions of the out of town account;
- 7) And finally, the funds generated by local citizens and local taxpayers are deposited in a neighboring community instead of supporting loan activity in the location in which the funds are derived.

**Recommendation:** That the Kansas legislature support and pass Sen. Bill No. 86 to permit financial institutions with home or branch offices located in the State of Kansas to hold public funds deposits.

Your consideration of this matter is appreciated.

Sincerely,



Douglas Hickman  
Executive Vice President  
Lucas, Ks. Branch

**KANSAS ASSOCIATION OF COMMUNITY COLLEGES**  
**BEFORE THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS**  
March 13, 1997

**SB 86**

Mr. Chairman, members of the Committee, I am pleased to appear today in support of SB 86.

Community colleges have an obligation to run their businesses in a responsible and fiscally prudent manner. When idle funds are available or when determining where an institution will handle their active accounts, they need to have as many options as possible to consider. Eliminating the largest banking organization in Kansas as potential bidders when they operate over 80 facilities and employ several thousand Kansas citizens does damage to all local governmental entities including the community colleges of Kansas.

The Dean of Administrative Services at the Garden City Community College, Lawrence Mahoney, advised us that they currently utilize Bank IV and several of its services. They selected those services through a bid process in which the college was interested in receiving the best service at the lowest cost. As an example they are able to direct deposit the college payroll with the bank by modem. That bank has technology allowing the community college to take advantage of their computer system and software at the lowest cost. It is important to Kansas and Kansas taxpayers to allow its public entities to take advantage of any business that offers services that they need and at the lowest possible cost. We thank you for your consideration and would be pleased to respond to any questions.

*House Financial Institutions*  
3-13-97  
Attachment 8



**Testimony Before the House Finance and Institutions Committee  
Fred Kaufman**

Chairperson and Members of the Committee,

I would like to thank you for allowing me to express my opinion in the matter of House Substitute for S.B. 86 on allowing the deposit of public funds in banks that do not have home offices located in Kansas.

I am sure I do not understand all of the technical aspects of this issue. However, I would like to familiarize you with some of the practical considerations as they relate to a more or less typical Kansas school district.

Bank IV is an important part of the Hays community. They have long been an asset to the community in a number of ways. The officials of the bank are understanding of the school district and of its financial needs. They have been supportive both on an official and unofficial basis.

Bank IV was the fiscal agent for a recent bond issue and we enjoyed an excellent working relationship. In addition they have served as a depository for school district funds on numerous occasions.

If we are not going to be able to deposit funds in Bank IV it will limit the school district's options. In January we drew \$3 million that the county had collected as taxes. We asked for bids from local banking institutions and received only three bids. The interest rates ranged from 5.29% to 4.95%. The deposits were split between two of the institutions. I can't help but wonder if the school district wouldn't have benefited from having another financial institution that would have been an active participant.

If the issue is one of protecting local banks, I would suggest to you that it is probably too late for that. In most cases local banks are gone and they are owned by someone from out of town.

Thank you for reading my testimony. We are very interested in developing some form of legislation that will allow a major financial institution to be able to continue to participate in school district business.

The names of banks seem to change rapidly. The people don't. Bank IV has the same personnel that we have had a long, beneficial relationship with. We would like to be able to continue that relationship.

*House Financial Institutions*  
3-13-97  
Attachment 9



## Memorandum

**Donald A. Wilson**  
President

**TO:** House Banking Committee

**FROM:** Kansas Hospital Association  
Thomas L. Bell, Senior Vice President/Legal Counsel

**RE:** SENATE BILL 86

**DATE:** March 13, 1997

The Kansas Hospital Association appreciates the opportunity to be heard regarding Senate Bill 86. Numerous other individuals and groups have testified about the details of this legislation, so our comments will be brief. We support language that would allow the deposit of public funds in banks not having their main offices in Kansas.

Our interest in this bill stems from the fact that one-half of the state's 128 community hospitals are owned by a governmental unit. In the vast majority of cases, that entity is a county, a city or a special hospital district. As such, those governmentally owned hospitals know the importance of the legal requirements governing deposit of public funds.

The hospitals affected by these state laws are by and large the small and rural facilities in Kansas. As the committee knows, these hospitals also face difficult financial challenges. Creating additional flexibility regarding the deposit of public funds not only helps these hospitals, but also the taxpayers supporting them.

Thank you for your consideration of our comments.

TLB:mkc

*House Financial Institutions*  
*3-13-97*  
*Attachment 10*



City Hall • 8500 Santa Fe Drive  
Overland Park, Kansas 66212

March 13, 1997

TO: House Financial Institutions Committee

FROM: Kristy Cannon, Director - Finance, Budget & Administration Department,  
City of Overland Park

SUBJECT: Substitute for SB 86

Chairman Cox and Members of the Committee:

The City of Overland Park would like to express our support of Substitute for SB 86.

The city would like to maintain its' flexibility in managing its' affairs and finances. As the number of financial institutions eligible to serve as the city's depository become fewer in number it will be more difficult for the city to obtain comprehensive and competitive banking service.

Currently, Overland Park contracts for banking services on a four-year cycle. We select a financial institution to act as our depository based on a competitive proposal process. In October of 1994, the last time we sought proposals, five were received. We are concerned that limiting the pool of potential bidders will result in less competition for our business, increase our costs, and reduce the number and type of service options available to assist us in making our financial operations as efficient as possible.

During the past several years we have seen many changes in the banking community. We have no reason to believe that changes prompted by business decisions on the part of financial institutions will not continue. We ask that you support legislative actions that will enhance our ability to respond to these market changes, and that you support Substitute for SB 86.

*House Financial Institutions*  
*3-13-97*  
*Attachment 11*



Testimony on Substitute for S.B. 86  
before the  
( House Committee on Financial Institutions )  
by  
Norm Wilks, Director of Labor Relations  
Kansas Association of School Boards

March 13, 1997

Mr. Chairman and members of the committee, on behalf of the unified school boards of education and other members of the Kansas Association of School Boards, we wish to express our support for the passage of the Substitute for S.B. 86.

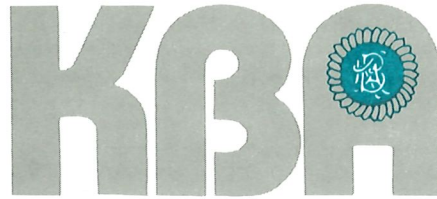
The policy issue included in the bill is to allow units of government to invest their funds in any bank or savings and loan association authorized to do business within the governmental entity. The bill defines the eligible institutions as those financial institutions operating a main office or branch office in the state. In our view it seems counterproductive to exclude certain banks or savings and loans as financial institutions eligible to take municipal funds when such entities are qualified to do business in the state of Kansas. The issue presented in the Substitute for S.B. 86 is whether we will allow competition for public funds among the banks and savings and loans maintaining a physical presence in the local unit of government or in counties in which the governmental entity is located.

The expansion of investment opportunities at the local level may actually provide an increase in the return on the investment with no increased risk of loss. The bill does nothing to reduce the level of security and safety of public funds.

In our view a school district should be able to invest its funds in any bank or savings and loan association that is authorized to do business in Kansas and pledges the adequate security for such deposit as required by law. For those reasons we support the passage of Substitute for S.B. 86.

Thank you for your consideration of this matter.

*House Financial Institutions*  
*3-13-97*  
*Attachment 12*



The KANSAS BANKERS ASSOCIATION  
A Full Service Banking Association

March 13, 1997

TO: House Committee on Financial Institutions  
RE: **Sub for SB 86** - Amendments to the public funds laws

Mr. Chairman and Members of the Committee:

On behalf of the Kansas Bankers Association (KBA) and its 410 member banks I would like to thank you for the opportunity to appear before the committee on **Sub for SB 86**. While the KBA does not oppose the technical amendments contained in the bill, we do oppose the provisions in the bill relating to eligibility of out-of-state banks to serve as depositories for local public funds.

For more than a half century the Kansas Legislature has maintained a philosophy about public funds which has served its citizen taxpayers very well. That philosophy has three basic tenants: (1) all deposits of public moneys must be safeguarded in the best possible manner; (2) all public funds should, if possible, be invested in the community or state where they originated in order to stimulate economic development; and (3) there should be a fair and reasonable rate paid on the invested funds.

There has been relatively little change in the public funds laws over the years. However, as the way in which financial institutions are owned and operated has changed some confusion has developed as to the exact meaning of certain terms used in the public funds statutes. The most recent question to arise concerns the eligibility of branches of out-of-state banks to take public funds and to serve as custodial banks for public funds pledging. **Sub for SB 86** makes significant changes in the local public funds laws by removing the requirement that a bank or s&l or savings bank must have a charter in Kansas in order to be eligible for public funds deposits or to serve as a custodial bank.

We do not believe such a change is in the best economic interests of Kansas. This state has always struggled to generate sufficient capital with which to fund agricultural, commercial and small business lending. As the attached chart reveals deposit growth in Kansas banks has been relatively flat for several years as competition for deposits has intensified - particularly with the securities market. In addition, the deposit base for many rural banks throughout the state is becoming more difficult to sustain as deposits held by senior citizens in the community are dispersed to family members in other communities and states.

*House Financial Institutions*  
*3-13-97*  
*Attachment 13*


Despite the minimal deposit growth for banks, the lending levels have steadily increased over the past several years. This, in turn, creates a funding problem for the banks' agricultural and small business customers. Public funds deposits from governmental units in the area thus become increasingly important to the community banks. Assuring there will be adequate capital to sustain lending for agriculture and small business in the rural communities of Kansas is a serious long-range problem which the Legislature must begin to address now.

Another impact on the state if **Sub for SB 86** is passed in its present form is to diminish the state's ability to control banking operations within the state. By eliminating the charter requirement it removes a very significant reason for a bank to retain a charter in Kansas. It is already apparent that Kansas will be a "host" state rather than a "home" state in the interstate banking environment and the State Bank Commissioner and the Kansas Legislature will continue to see their authority to influence banking operations erode if bills such as **Sub for SB 86** are enacted.

Present public funds statutes give local units of government several options for placing deposits at fair and reasonable rates. If there are no bidders for the deposits among the banks and s&ls in the community the local units may purchase Treasury bills at market rates or invest in the state Municipal Investment Pool (MIP) at market rates.

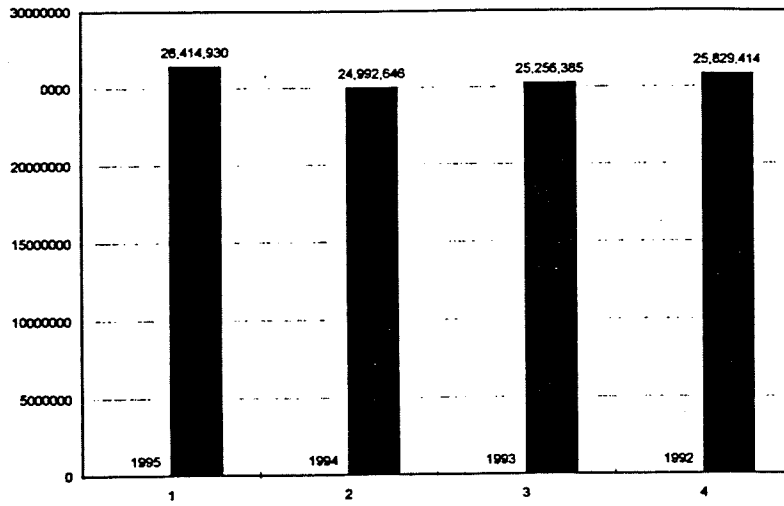
Once again, we thank the committee for allowing us this opportunity to discuss our concerns about this legislation. We would again emphasize that we do not believe **Sub for SB 86** is good legislation for the long-range economic development of Kansas.

Mr. Chairman, we stand ready and willing to work with the committee in providing any additional information which might be necessary for the committee's deliberations.

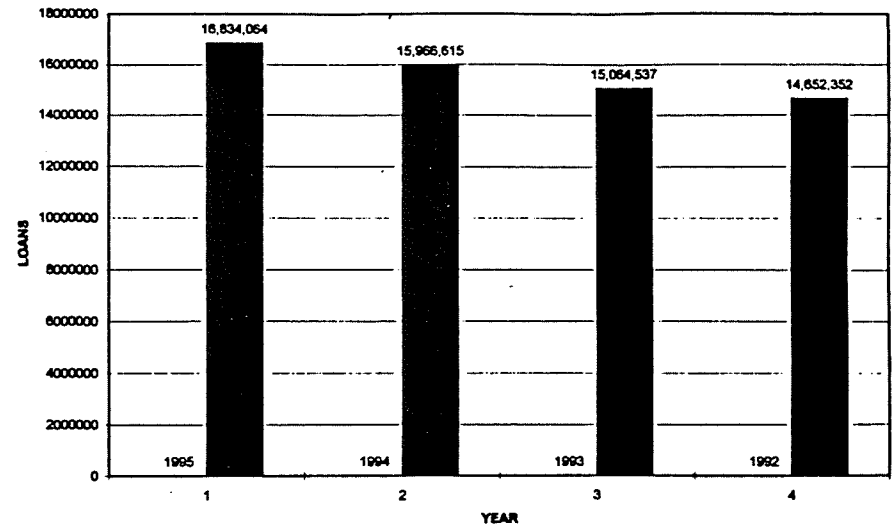
  
James S. Maag  
Senior Vice President

### GRAPHIC INFORMATION: ALL KANSAS BANKS

TOTAL DEPOSITS



TOTAL LOANS AND LEASES



## House Committee on Financial Institutions and Insurance

### *Testimony: Sub for Senate Bill 86*

#### 1. Value of Public Funds to our Bank, Citizens State Bank, Osage City

- a) Public Funds as a percent of total deposits = 28.5%
  - 41.4% of our deposit growth has been from Public Funds for past two years
  - Loans increased 55.8% in the same time period
  - 1996 interest paid on all Public Fund accounts averaged 5.20%
  - 1996 interest paid on all deposits of the Bank averaged 4.05%
- b) Public Funds as a source to fund loans
  - Historical level of Public Funds to consider as core deposits, stability—in order for us to utilize Public Funds in our lending philosophy we need to feel secure (and document) that the funds are going to be available at local market rates
  - Loans are going back into local communities and agriculture
  - Reduction in Public Funds would result in less dollars loaned locally
- c) Investments in Kansas Municipal Bonds and Municipal Lease/Purchases = 30% of Public Funds on deposit with us.

#### 2. Potential for funds to flow out of state or away from under developed areas

- a) For example, an out of state banking entity could have "super market branches" only and be able to receive Public Funds. This type of branch is low cost with very little investment in Kansas property and probably a small interest in Community Reinvestment.
- b) There would be a higher potential for funds to flow from the rural or less developed counties to the more metro regions in the State where most of the out of state branches would chose to locate.
- c) Public Funds need to be invested within the area attributable.
- d) Potential for higher rates in other parts of the world putting pressure on local governmental entities to invest at the higher rate to avoid fiduciary responsibility issues.

#### 3. Value of Kansas Bank Charter

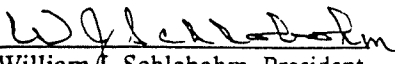
- a) At what point does the value of a Kansas Bank Charter cease to exist?
  - Currently you need to have a Kansas Charter to branch within the State, accept Public Funds and for State Banks have higher approved lending limits.
  - Two of these three seem to be in jeopardy this legislative session.

#### 4. What are the CRA requirements of a branch compared to the Main office?

- a) Currently the small banks of Kansas respond to community development needs as a matter of civic responsibility as well as meeting Community Reinvestment Act requirements. In the case of large numbers of branches this responsibility can be diluted. It is imperative that public entities reinvestment in their taxing areas to achieve the multiple economic benefit.

#### 5. Loans for Agriculture and Small Business

- a) According to FDIC statistics from September 30, 1996 there were 418 commercial banks in Kansas and 361 of these banks were smaller than \$100 million total assets. Even though the small banks represent 86.4% of the banks in Kansas they have only 39.4% of the total deposits. However, when it comes to loans for Agriculture Operating Loans, the small banks provide 70.8% of the bank financing and 72.5% of the bank financing on Agriculture Real Estate.
- b) In comparison the three banks with over 1 Billion in assets had 23.5% of the deposits and provided 7.9% of Agriculture Operating Loans and 5.7% of Agriculture Real Estate Loans.

  
William J. Schlobohm, President  
Citizens State Bank  
Osage City, Kansas

*House Financial Institutions*  
3-13-97  
Attachment 14



# UNION STATE BANK

P. O. Box 105 - 6TH & MAIN  
EVEREST, KANSAS 66424  
(913) 548-7521

Date: March 13, 1996  
To: House Financial Institutions Committee  
From: Steve Handke, President & CEO  
Subject: Testimony in opposition of Senate Bill 86

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to address you today on such an important economic issue. I am Steve Handke, President and Chief Executive Officer of the Union State Bank of Everest. Our bank serves the northeastern Kansas counties of Brown, Atchison, and Doniphan. As way of introduction, my formal education was in economics. I earned a BS at Kansas State University and a Masters Degree in Economics at Oklahoma State University. I am fortunate to have the opportunity to use this training in the community where our family has lived for four generation. I am here today on behalf of the Community Banker's Association of Kansas in opposition of Senate Bill 86. But more importantly, I am here today as a concerned Kansan to oppose a piece of legislation that would be bad public economic policy for Kansas.

It is hard to over emphasize the importance of the supply of money to economic growth. The Federal Reserve controls the whole direction of the US economy by merely shrinking and expanding the money supply. In Kansas, we can look at one component of our state's money supply as measured in deposits. Presently, in Kansas there are approximately \$26 Billion in total deposits. State and local public funds make up 10-12% of those total deposits, or in dollar terms approximately \$3 billion. This is a huge amount of money that commands a considerable economic power in Kansas.

As I reviewed the testimony and debate from the Senate's consideration of SB 86, it appears this issue was divided mostly by urban vs. rural sentiments. I also see the majority of the representatives on this committee represent urban counties. I hope my remarks will help to bridge this gap in the House. Sound economic principals apply equally in city or rural markets. The only difference is that in rural areas our economies are smaller and easier to see the working of these principals and the importance of deposits or money in economic growth. Viewing this public funds issue with good economics is good for cities as well as rural areas and therefore best for all of Kansas..

The major proponents of changing Kansas's long standing policy of public funds investment appears to be representatives of local units of government, and large out of state bank holding companies. The government units are genuinely concerned about getting competitive rates for their funds, and the large out of state banks are wanting access to Kansas's largest source of funds. I would like to address each of these issues.

The local units of government proponents of allowing out of state banks and S&Ls access to public funds cite concerns about lack of competition. They believe that with out competition they will not earn a market rate of interest on their funds. This is precisely why the Pooled Money Investment Board was created in Kansas. If local units of government could not get a competitive bid locally for their funds, they could go to the state pooled funds for a market rate. Historically, not only did these local units get market interest rates at the pool , but they earned above market rates which caused problems with the pools.

*House Financial Institutions*  
*3-13-97*  
*Attachment 15*



Thankfully, the Pooled Money Investment Board and the Legislature have made changes to the program to get back to paying market rates.

An even more important issue that I believe the opponents from local units of government have missed is the importance local deposits play in building tax bases. The business of local banking is to take a short term deposit, and by making a loan, create a long term asset. These loans provide the local engine for the creation of new property that generally increases the tax base of the community. When new cars are purchased, new houses are built, businesses opened, tax bases increase and tax revenues go up. It just doesn't make sense to let deposits flow out of the state to build tax bases in other states. Since public funds are monies that come from our local communities, don't we owe it to people to first invest back into their communities?

The second group of proponents that appear to be pushing for changing Kansas's public funds policy are the large out of state banks and holding companies. The management of these banks do not want to keep a Kansas Charter, or home office, for their Kansas banking operations, but merely operate their facilities as a branch. You must not be misled by representatives of banks that have been purchased by large out of state banks. Every bank can have only one CEO and one ultimate board with command and control. Unfortunately, for one of the state's largest former banks, this control center is not in Kansas. Kansas is now a host state for these out of state banks, and their previous officers who ran their banks have little standing in this debate. Once you have sold a business, you can not tell a new owner how to run his shop.

Branch banking is in essence a conduit or pipeline for management and the flow of funds, which now are extending over Kansas borders. My community is a vivid example of what these pipelines can do. In our market of the City of Atchison, the community is served by four banks and one savings & loan. The town is prospering with good economic growth in large part due to the competition of the local banks. Our competitor bank, The Exchange National Bank, is the largest bank in the market at approximately \$120 million in assets. It's a well managed bank that is aggressively lending in the Atchison area using over 70% of their deposit for loans. Our bank is a smaller bank in the market at \$17 million in assets and we also are using over 70% of our deposit for loans. In Atchison county during 1996, 492 residential real estate mortgages were filed at the county register of deeds. Silent in these numbers is the second largest financial institution in the market that being World Saving and Loan Association, head quartered in Oakland, California. This out of state branch has \$60 million in local deposit and in 1996 made 1 mortgage loan. It made 2 mortgage loans in each of the years 1995, 1993, and 1992, and no mortgage loans in 1994. It should also be clarified of their 8 mortgage loans since 1992, 3 loans were to their employees. This is a vivid example to illustrate what out of state banks and S&Ls can create with branch conduits for management and deposits. Can you imagine what it would do to our local tax base if we could get 70% of World Saving's deposits working in the community.

In conclusion, I strongly recommend that the current policy remain unchanged for the investment of Kansas public funds and urge you to oppose SB 86. Please don't let such a huge part of our state's money supply be sucked out across interstate deposit conduits. It is good sound economic policy for both cities and rural areas to make every attempt to use Kansas funds in Kansas by requiring a Kansas charters or home offices for all public funds holders.



# FIRST STATE BANK



P.O. Box 307  
Cherryvale, Kansas 67335  
316-336-2145

P.O. Box 246  
Edna, Kansas 67342  
316-922-3294

P.O. Box 300  
Neodesha, Kansas 66757  
316-325-2900

*Let us serve your financial needs*

March 13, 1997

To: House Committee on  
Financial Institutions

From: Gary W. Cotterill  
President & CEO  
First State Bank  
Edna, Kansas

I am writing in opposition to Sub for SB86 which would allow out of state banks and savings and loans who branch into Kansas to accept public funds and to serve as custodians of securities pledged on public fund deposits.

Our bank of 46 million plus is located in southeast Kansas, serving in a rural type of environment with a mixed loan portfolio of real estate, commercial, agriculture, and personal. Our loan demand for the past 5 + years has remained strong which requires a consistent source of funds and core base of deposits to fund every day needs. Our loan to deposit ratio remains around 80% and sometimes higher. This creates very limited liquidity. In the past 6 months we have seen a further erosion of our liquidity due to competition for deposits and the demand for good loans has outpaced the deposit growth.

In our present deposit base of \$41,166,845.00 we have over \$3,200,000.00 in public deposits and need more.

Another issue that will become a larger challenge is when the older generation money passes to the next generation, in many cases the money leaves the area and our bank thereby further compounding the liquidity problem. It is imperative that we have access to all public funds. For our future deposit growth the outlook remains guarded at best.

Let's keep Kansas deposits in Kansas chartered banks for the benefit of Kansans, generations to come.

Thank you for your time.

*House Financial Institutions*  
3-13-97  
*Attachment 16*

Member  
F.D.I.C.

