

Approved: February 4, 1997
Date

MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Don Steffes at 9:00 a.m. on January 28, 1997 in Room 529-S of the Capitol.

All members were present except:

Committee staff present: Dr. William Wolff, Legislative Research Department
Fred Carman, Revisor of Statutes
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Jim Maag, Kansas Bankers Association
Chris McKenzie, League of Kansas Municipalities
Fred Kauffman, Superintendent of Hays School District
Merle Hill, Community Colleges
Norm Wilks, Kansas Association of School Boards
Newton Male, Kansas Bankers Association
Joyce Coker, Johnson County Financial Officer
JoLana Pinon, State Bank Commissioners Office

Others attending: See Attached List

Hearing on SB 86 - Public funds depositories

Jim Maag, Kansas Bankers Association, appeared before the Committee as a proponent of the bill which would clarify the position of agencies responsible for public funds deposits (Attachment 1). The bill would:

1. Allow only banks or savings and loans which have Kansas charters or national banks who have their main office in Kansas, to be eligible to act as depositories for public funds or serve as custodial banks for public funds pledging.
2. Bring the state and local public funds pledging statutes into conformity with recent revisions in the UCC by a technical amendment.
3. Address the way in which a security interest can be obtained and perfected.
4. Include provisions relating to the pledging of securities held by a wholly-owned subsidiary of a bank.
5. Allow banks and savings and loans to pledge commercial paper for local public funds deposits.
6. Clarify how banks handle pledging with the Federal Reserve Bank of Kansas City.

The controversial portion of the bill is a policy issue of who is eligible to hold public funds. The bill would adversely affect National Bank. At this point the National Bank could buy a \$2 million bank in a small town and continue to hold public funds without having either its main office in Kansas or having a Kansas bank charter. The fear appears to be that without a Kansas charter, Kansas loses some of its oversight capabilities and authority. Some banks do not want to take public funds because they must pledge securities and this could tie up their funds and assets, thus not allowing them to have enough for loans especially if the interest rate is high.

Chris McKenzie, Executive Director of League of Kansas Municipalities, told the Committee that the League's main concern with the responsibility of public funds is that the institution receiving the funds offer safety, liquidity, and a good return on the deposits (Attachment 2). Competition is the best driving force for attaining these attributes and the proposed bill would limit the competition by restricting the use of banks as public funds depositories if they do not have home offices in the state. Proposed amendments by the League would allow banks and savings and loan institutions who have an office in Kansas to participate as depositories for

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on January 28, 1997.

public funds. The term "office" should be defined.

Fred Kauffman, Superintendent of Hays Public Schools, informed the Committee of the importance of Bank IV to the Hays community and school district (Attachment 3). Without their ongoing assistance through the years no matter what the name of the bank was and knowledge of the district's type of banking needs, the district would have trouble operating as all their money is short term and very rate driven. Mr. Kauffman reminded the Committee that if this bill was an attempt to protect locally owned and operated banks, it was probably too late because in most cases local banks are gone and they are owned by someone from out of town.

Kristy Cannon, Director of Finance, Budget and Administration for Overland Park, presented written testimony in opposition to the bill (Attachment 4).

W. Merle Hill, Executive Director of the Kansas Association of Community Colleges, reported they only received one response to their inquiry of community colleges on their position on using banks not chartered or having a home office in Kansas (Attachment 5). Garden City Community College reported they currently use Bank IV services which include the ability to direct deposit payroll by modem, offer lowest costs for services, and offer support for electronic banking services.

Willie Martin, Intergovernmental Relations for Sedwick County, presented written testimony in opposition to the bill (Attachment 6).

Norm Wilks, Director of Labor Relations for Kansas Association for School Boards, reported that several government entities have experienced problems in finding facilities which can handle public deposits during time of high volume such as tax collection and revenue transfers (Attachment 7). By disallowing banks who do not have a Kansas charter to participate as depositories of public funds, certain agencies may be prohibited from taking advantage of lower cost services just because the bank does not have a "home office" in Kansas. Geographical limitations on the deposit of funds is an antiquated system in this time of electronic banking and branch offices and is counterproductive to an open market concept. School boards should be allowed to deposit funds in any Kansas bank.

There was a break in the hearing in order to allow the introduction of legislation by State Bank Commissioner Newton Male (Attachment 8). This request sets the limit on the amount of money a bank can loan to an individual.

Senator Feliciano moved for the introduction of this proposal into legislation. The motion was seconded by Senator Becker. Motion carried.

The hearing on **SB 86** was continued.

Joyce Coker of Johnson County read testimony prepared by Peggy A. Elliott, District Court Trustee of the Tenth Judicial District (Attachment 9). Electronic telecommunication has removed the geographical barriers and the proposed legislation to limit public depositories to only Kansas based banks. The current statute is provincial and detrimental to business. She explained the difficulty of operating their account and the need for a bank to understand their problems and unique situation. Through the years the name of the bank has changed but the people and excellent services have remained constant. The bank they use is across the street from their facility but does not fall under the category of home office within the state. She requested that such restrictions not be considered before service and convenience.

JoLana Pinon, State Treasurer's Office, said their office requires a banking facilities which can handle \$10-12 billion on an annual basis and process millions of checks. Bank IV has been willing to take this account while other banks have not chosen to be part of the bidding process for the account.

Ron Cousino, member of the Board of Education of USD 233, presented written testimony in opposition to the bill as it now appears (Attachment 10).

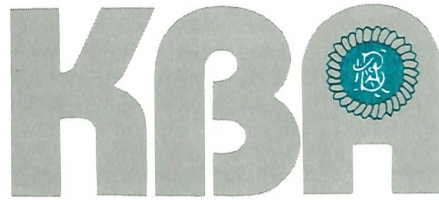
The hearing on **SB 86** was continued until February 3, 1997.

The meeting was adjourned at 10:00 a.m. The next meeting is scheduled for January 29, 1997.

SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: 1/28

NAME	REPRESENTING
Jim Magee	KBA
James Cohen	Johnson County Court
Shirley Martin	Bellevue County
Tom Wilder	Kansas Insurance Dept
Johna Simon	State Treasury
Joe Schulte	KCUA
Roger Brazier	STATE TREASURER'S OFFICE
Alan Steppert	PETE McGUIRE & ASSOC.
Chris McKenzie	League of KS. McKenzie
Chris Keshan	Kansas Trial Lawyers
Wren Thomas	BANK IV
Sue Ann Schuelz	BANK IV
Judy Molen	K A C
John Peterson	Bank IV
Chuck Stones	K B A
Burd Smoot	B IV
Ken Behr	Bank IV
Kathryn Miller	KS Bankers Assoc
James W. Henauer	AmWesters



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

January 28, 1997

TO: Senate Committee on Financial Institutions and Insurance
RE: **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 in support of **SB 86**. The issues involved in this bill have been discussed by the KBA State Affairs Committee and the committee endorses **SB 86** as presented.

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. **SB 86** is an attempt to clarify what we believe to be the legislative intent of the existing public funds statutes, *i.e.*, that only banks which have Kansas charters are eligible to take public funds or to serve as custodial banks for public funds pledging.

In addition to clarifying the eligibility language **SB 86** also contains language which brings the state and local public funds pledging statutes into conformity with recent revisions in Article 8 of the Uniform Commercial Code. That Article addresses the way in which a security interest can be obtained and perfected. The bill also amends K.S.A. 9-1402 to include provisions of Attorney General Opinion 96-28 relating to the pledging of securities held by a wholly-owned subsidiary of a bank.

The bill further amends K.S.A. 9-1402 to allow banks and s&l's to pledge commercial paper for local public funds deposits. This brings the local public funds pledging statute into conformity with the state funds pledging statute (K.S.A. 75-4201). Finally the bill

Senate F.D.D

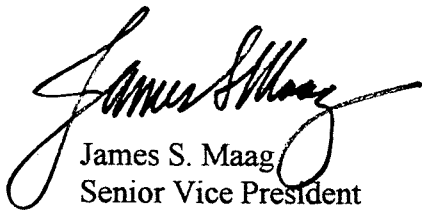
Attachment 1

1/28/97

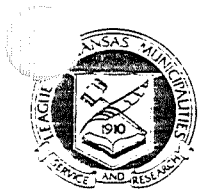
amends K.S.A. 9-1405 to clarify how banks handle pledging with the Federal Reserve Bank of Kansas City.

We respectfully request that the committee carefully consider the amendments proposed in **SB 86** and that the bill be recommended favorably for passage. We strongly believe that the public funds laws of Kansas have served our state well in good times and bad times such as those Kansans experienced in the 1980s when there were numerous bank and s&l failures. Not one dime of public funds was ever lost in those years and that speaks highly of the legislative wisdom of enacting public funds laws which encourage Kansas development without jeopardizing the safety of public funds deposits.

Once again, we thank the committee for allowing us this opportunity to present this legislation and discuss it with the committee. We stand right 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



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: Senate Financial Institutions and insurance Committee
FROM: Chris McKenzie, Executive Director
DATE: January 29, 1997
SUBJECT: Testimony and Suggested Amendments to Senate Bill 86

Thank you for the opportunity to appear today on behalf of the 529 member cities of the League of Kansas Municipalities in opposition to SB 86 as written and in support of some needed amendments. The substance of SB 86 was discussed less than two weeks ago by the League's Finance and Taxation Policy Committee, and the views I am expressing today have been endorsed by that important League committee and reviewed by the League's 15 member governing body.

The Policy Question. We are here today to discuss one of the most important values to us as Kansans: open and free competition in the market place. The policy question raised by SB 86 is: will we as a state allow *open* competition on a *level* playing field for the deposit and investment accounts of our political subdivisions, or are we going to continue to impose restrictions which prevent their deposit in what can be expected to be a growing number of banks owned by banks with main offices located outside our state and its communities? The member cities of the League, which collectively deposit and invest hundreds of millions of public funds each year, respectively urge you to clearly open the door to allow branches of banks, savings and loans, and savings banks 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 discovered that the only statutory penalty for ignoring such a prohibition was personal liability for the public officers responsible for such funds in the event of a failure or default of any designated depository financial institution. This penalty is found in K.S.A. 9-1406 and is amended in Section 5 of SB 86 (see page 8). 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 SB 86 appears to be to clarify even further the home office restrictions of state law (now referred to in the bill as a "main" office) and to limit even further the opportunity for competition for public fund deposits and investments. You will hear testimony from individual local officials today about the necessity of such competition in order to ensure a reasonable rate of return on public fund deposits and investments. As you know,

Senate F.D.D.
Attachment 2
1/28/97

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 respectfully submit that SB 86, and current state law for that matter, unreasonably restricts the prospects for competition and return on the deposit and investment of public funds.

Proposed Amendments. Attached to my testimony are a series of League proposed amendments to SB 86 which, if made, would carry out the objective of allowing both Kansas chartered banks and savings and loans as well as nationally chartered banks, savings and loans and savings banks with an office (not a main office only) in Kansas serve as a depository of active and inactive public funds. We urge you to consider these amendments favorably.

Community Investment Commitment. The whole question of interstate banking is a complicated and emotional issue. It also is one on which I can claim little expertise. I would draw to the attention of the Committee, however, the provisions of the federal Riegle-Neal Act (found at 12 U.S.C. § 109) which impose limitations on the origination of out-of-state loans by an out-of-state bank which engages in interstate banking under the Act. The provisions empower the applicable federal agency to order the closure of an interstate branch if the bank's level of lending in the state in which the branch is located is "...less than half the average of the total loans in the host State relative to total deposits from the host State..." Commitment to the community is always going to be one of the factors local officials look at in selecting depositories for public funds. Given this provision of federal law, it may be unnecessary to impose any similar requirements in state law.

Other Issues. As the advocates of SB 86 will probably note for the Committee, it also contains a number of other changes in the states public funds law that deserve careful attention. While not necessarily opposed to them, the League would appreciate your careful study of the following provisions:

Section 2: new references to security interests, security entitlements, financial assets and securities accounts (page 3), authorization to secure public funds by a pledge of commercial paper (page 4), and removal of existing provisions in subsection (f) concerning the pledge of bonds (page 5); and

Section 4: provisions dealing with custodial banks in subsection (b) (page 6) ; new language in subsection (c) concerning agreements about pledged securities (page 7) and definitions of new terms in subsection (e)(2) (page 8).

RECOMMENDATION: We urge your careful consideration of our proposed amendments to SB 86, and we request the opportunity to further discuss all of the above issues with the Committee, any subcommittee which may be appointed, and other parties involved in this process.

Thank you for this opportunity and your attention.

SENATE BILL No. 86

By Committee on Financial Institutions and Insurance

1-23

9 AN ACT relating to public moneys; concerning depositories; amending
10 K.S.A. 9-1401, 9-1403, 9-1406, 9-1407, 12-1676 and 17-5002 and
11 K.S.A. 1896 Supp. 9-1402, 9-1405, 12-1675, 12-1677a, 12-1677b, 75-
12 4201 and 75-4218 and repealing the existing sections.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 9-1401 is hereby amended to read as follows: 9-

16 1401. (a) The governing body of any municipal corporation or quasi-mu-
17 nicipal corporation shall designate by official action recorded upon its
18 minutes the state and national banks; state and federally chartered savings
19 and loan associations and federally chartered savings banks with home
20 offices located in the state of Kansas banks and savings and loan associ-
21 ations incorporated under the laws of this state, and the banks, savings
22 and loan associations and savings banks organized under the laws of the

23 ~~United States and having [their main offices] in this state~~ which shall serve
24 as depositories of its funds and the officer and official having the custody
25 of such funds shall not deposit such funds other than at such designated
26 banks, state or federally chartered savings and loan associations and fed-
27 erally chartered savings banks. The state and national banks; state and
28 federally chartered savings and loan associations and federally chartered
29 savings banks banks and savings and loan associations incorporated under
30 the laws of this state, and the banks, savings and loan associations and
31 savings banks organized under the laws of the United States and having

32 ~~[their main offices] in this state,~~ which have offices in the county or counties
33 in which all or part of such municipal corporation or quasi-municipal
34 corporation is located shall be designated as such official depositories if
35 the municipal or quasi-municipal corporation can obtain satisfactory se-
36 curity therefor; and such official depositories have a home office located
37 in the state of Kansas.

38 (b) Every officer or person depositing public funds shall deposit all
39 such public funds coming into such officer or person's possession in their
40 name and official title as such officer. If the governing body of the mu-
41 nicipal corporation or quasi-municipal corporation fails to designate an
42 official depository or depositories, the officer thereof having custody of
43 its funds shall deposit such funds with one or more state or national banks;

an office

an office

2
10

1 state or federally chartered savings and loan associations or federally char-
 2 tered savings banks banks or savings and loan associations incorporated
 3 under the laws of this state, or banks, savings and loan associations or
 4 savings banks organized under the laws of the United States and having
 5 their main offices in this state which have offices in the county or counties an office
 6 in which all or part of such municipal corporation or quasi-municipal
 7 corporation is located if satisfactory security can be obtained therefor and
 8 if not then elsewhere, but upon so doing shall serve notice in writing on
 9 the governing body showing the names and locations of such banks, state
 10 or federally chartered savings and loan associations and federally char-
 11 tered savings banks where such funds are deposited, and upon so doing
 12 the officer having custody of such funds shall not be liable for the loss of
 13 any portion thereof except for official misconduct or for the misappro-
 14 priation of such funds by such officer.

15 (c) As used in this section and K.S.A. 9-1402, 9-1403 and 9-1405, and
 16 amendments thereto, "municipal corporation or quasi-municipal corpo-
 17 ration" includes each investing governmental unit under K.S.A. 12-1675,
 18 and amendments thereto.

19 Sec. 2. K.S.A. 1096 Supp. 9-1402 is hereby amended to read as fol-
 20 lows: 9-1402. (a) Before any deposit of public moneys or funds shall be
 21 made by any municipal corporation or quasi-municipal corporation of the
 22 state of Kansas with any state or national bank, state or federally chartered
 23 savings and loan association or federally chartered savings bank bank or
 24 savings and loan association incorporated under the laws of this state, or
 25 any bank, savings and loan association or savings bank organized under
 26 the laws of the United States and having its main office in this state, such an
 27 municipal or quasi-municipal corporation shall obtain security for such
 28 deposit in one of the following manners prescribed by this section.

29 (b) Such bank, state or federally chartered savings and loan associa-
 30 tion or federally chartered savings bank may give to the municipal cor-
 31 poration or quasi-municipal corporation a personal bond in double the
 32 amount which may be on deposit at any given time.

33 (c) Such bank, state or federally chartered savings and loan associa-
 34 tion or federally chartered savings bank may give a corporate surety bond
 35 of some surety corporation authorized to do business in this state, which
 36 bond shall be in an amount equal to the public moneys or funds on deposit
 37 at any given time less the amount of such public moneys or funds which
 38 is insured by the federal deposit insurance corporation or its successor
 39 and such bond shall be conditioned that such deposit shall be paid
 40 promptly on the order of the municipal corporation or quasi-municipal
 41 corporation making such deposits.

42 (d) Any state or national Such bank, state or federally chartered sav-
 43 ings and loan association or federally chartered savings bank may deposit,

7-2

1 maintain, pledge and, assign, and grant a security interest in, or cause its
2 agent, trustee, wholly-owned subsidiary or an affiliate bank having iden-
3 tical ownership as the bank receiving the deposit of public moneys or
4 funds to deposit, maintain, pledge and, assign, and grant a security in-
5 terest in, for the benefit of the governing body of the municipal corpo-
6 ration or quasi-municipal corporation in the manner provided in this act,
7 securities, security entitlements, financial assets and securities accounts
8 owned by the depository institution directly or indirectly through its
9 agent or trustee holding securities on its behalf, or owned by the depos-
10 itory institution's wholly-owned subsidiary or by such affiliate bank, the
11 market value of which is equal to 100% of the total deposits at any given
12 time, and such securities, security entitlements, financial assets and se-
13 curities accounts may be accepted or rejected by the governing body of
14 the municipal corporation or quasi-municipal corporation and shall con-
15 sist of the following and security entitlements thereto:

16 (1) Direct obligations of, or obligations that are insured as to principal
17 and interest by, the United States of America or any agency thereof and
18 obligations, including but not limited to letters of credit, and securities
19 of United States sponsored corporations which under federal law may be
20 accepted as security for public funds;

21 (2) bonds of any municipal corporation or quasi-municipal corpora-
22 tion of the state of Kansas which have been refunded in advance of their
23 maturity and are fully secured as to payment of principal and interest
24 thereon by deposit in trust, under escrow agreement with a bank, of direct
25 obligations of, or obligations the principal of and the interest on which
26 are unconditionally guaranteed by, the United States of America;

27 (3) bonds of the state of Kansas;

28 (4) general obligation bonds of any municipal corporation or quasi-
29 municipal corporation of the state of Kansas;

30 (5) revenue bonds of any municipal corporation or quasi-municipal
31 corporation of the state of Kansas if approved by the state bank commis-
32 sioner in the case of banks and by the savings and loan commissioner in
33 the case of savings and loan associations or federally chartered savings
34 banks;

35 (6) temporary notes of any municipal corporation or quasi-municipal
36 corporation of the state of Kansas which are general obligations of the
37 municipal or quasi-municipal corporation issuing the same;

38 (7) warrants of any municipal corporation or quasi-municipal corpo-
39 ration of the state of Kansas the issuance of which is authorized by the
40 state board of tax appeals and which are payable from the proceeds of a
41 mandatory tax levy;

42 (8) bonds of either a Kansas not-for-profit corporation or of a local
43 housing authority that are rated at least Aa by Moody's Investors Service

- 1 or AA by Standard & Poor's Corp.;
- 2 (9) bonds issued pursuant to K.S.A. 12-1740 *et seq.*, and amendments
3 thereto, that are rated at least MIG-1 or Aa by Moody's Investors Service
4 or AA by Standard & Poor's Corp.;
- 5 (10) notes of a Kansas not-for-profit corporation that are issued to
6 provide only the interim funds for a mortgage loan that is insured by the
7 federal housing administration;
- 8 (11) bonds issued pursuant to K.S.A. 74-8901 through 74-8916, and
9 amendments thereto;
- 10 (12) bonds issued pursuant to K.S.A. 68-2319 through 68-2330, and
11 amendments thereto; or
- 12 (13) *commercial paper that does not exceed 270 days to maturity and*
13 *which has received one of the two highest commercial paper credit ratings*
14 *by a nationally recognized investment rating firm; or*
- 15 ~~(13)~~ (14) (A) negotiable promissory notes together with first lien
16 mortgages on one to four family residential real estate located in Kansas
17 securing payment of such notes when such notes or mortgages:
- 18 (i) Are underwritten by the federal national mortgage association, the
19 federal home loan mortgage corporation, the federal housing administration, the
20 federal home loan mortgage corporation, the federal housing administration or the veterans
21 administration standards; or are valued pursuant to
22 rules and regulations which shall be adopted by both the state bank commissioner
23 and the savings and loan commissioner after having first being
24 submitted to and approved by both the state banking board under K.S.A.
25 9-1713, and amendments thereto, and the savings and loan board. Such
26 rules and regulations shall be published in only one place in the Kansas
27 administrative regulations as directed by the state rules and regulations
28 board;
- 29 (ii) have been in existence with the same borrower for at least two
30 years and with no history of any installment being unpaid for 30 days or
31 more; and
- 32 (iii) are valued at not to exceed 50% of the lesser of the following
33 three values: Outstanding mortgage balance; current appraised value of
34 the real estate; or discounted present value based upon current federal
35 national mortgage association or government national mortgage association
36 interest rates quoted for conventional, federal housing administration
37 or veterans administration mortgage loans.
- 38 (B) Securities under (A) shall be taken at their value for not more
39 than 50% of the security required under the provisions of this section.
- 40 (C) Securities under (A) shall be withdrawn immediately from the
41 collateral pool if any installment is unpaid for 30 days or more.
- 42 (D) A status report on all such loans shall be provided to the investing
43 governmental entity by the financial institution on a quarterly basis.
- 44 (e) No state or national *such* bank, state or federally chartered savings

1 and loan association or federally chartered savings bank may deposit and
2 maintain for the benefit of the governing body of a municipal or quasi-
3 municipal corporation of the state of Kansas, any securities which consist
4 of:

5 (1) Bonds secured by revenues of a utility which has been in opera-
6 tion for less than three years; or

7 (2) bonds issued under K.S.A. 12-1740 *et seq.*, and amendments
8 thereto, unless such bonds have been refunded in advance of their ma-
9 turity as provided in subsection (d) or such bonds are rated at least Aa by
10 Moody's Investors Service or AA by Standard & Poor's Corp.

11 (f) Whenever a bond is authorized to be pledged as a security under
12 this section; such bond shall be accepted as a security if

13 (1) In the case of a certificated bond; it is assigned; delivered or
14 pledged to the holder of the deposit for security;

15 (2) in the case of an uncertificated bond; registration of a pledge of
16 the bond is authorized by the system and the pledge of the uncertificated
17 bond is registered; or

18 (3) in a form approved by the attorney general; which assures the
19 availability of the bond proceeds pledged as a security for public deposits.

20 (g) Any expense incurred in connection with granting approval of
21 revenue bonds shall be paid by the applicant for approval.

22 Sec. 3. K.S.A. 9-1403 is hereby amended to read as follows: 9-1403.

23 (a) During the periods of peak deposits occurring at tax paying time and
24 tax distributing time and continuing for a period of not to exceed 60
25 continuous days at any given time and not to exceed 120 days in any
26 calendar year the amount of security for the deposit of public moneys as
27 required under K.S.A. 9-1402, and amendments thereto, may be reduced
28 by not more than $\frac{1}{2}$ in an amount thereof.

29 (b) The provisions of this section shall apply only to the deposits of
30 all municipal corporations and quasi-municipal corporations, but the cus-
31 todian of the funds of each of such municipal corporations or quasi-mu-
32 nicipal corporations together with an officer of the depository state or
33 national bank, state or federally chartered savings and loan association or
34 federally chartered savings bank may enter into an agreement which des-
35 ignates in writing the beginning of each such sixty-day period, and a copy
36 thereof, fully executed, shall be kept on file in the office of the governing
37 body of such municipal corporation or quasi-municipal corporation and
38 in the files of such bank, state or federally chartered savings and loan
39 association or federally chartered savings bank.

40 Sec. 4. K.S.A. 1996 Supp. 9-1405 is hereby amended to read as fol-
41 lows: 9-1405. (a) All bonds and securities given by any bank, state or
42 federally chartered savings and loan association or federally chartered
43 savings bank to secure public moneys of the United States or any board,

1 commission or agency thereof, shall be deposited as required by the
 2 United States government or any of its designated agencies.

3 (b) All bonds and securities pledged to secure securities, security en-
 4 titlements and financial assets securing the deposits of any municipal cor-
 5 poration or quasi-municipal corporation shall be deposited in a securities
 6 account with a bank, trust company, or national bank authorized to do
 7 business in Kansas bank or trust company incorporated under the laws
 8 of this state or a bank organized under the laws of the United States and
 9 having its main office in this state having adequate modern facilities for
 10 the safekeeping of securities, the federal reserve bank of Kansas City, the
 11 federal home loan bank of Topeka or with the state treasurer, pursuant
 12 to a written custodial agreement and a joint custody receipt taken therefor
 13 with one copy going to the municipal corporation or quasi-municipal cor-
 14 poration making the public deposit and one copy going to the bank, state
 15 or federally chartered savings and loan association or federally chartered
 16 savings bank which has secured such public deposits. The receipt shall
 17 identify the securities, security entitlements and financial assets which are
 18 subject to a security interest to secure payment of the deposits of the
 19 municipal corporation or quasi-municipal corporation. This section shall
 20 not prohibit any custodial bank or trust company receiving securities for
 21 safekeeping, security entitlements and financial assets on deposit from
 22 issuing a joint custody receipt and placing these depositing securities,
 23 security entitlements and financial assets identified in the receipt in such
 24 bank's account with any bank chartered in Kansas or any other state, any
 25 trust company chartered in Kansas or any other state, any national bank,
 26 or any centralized securities depository wherever located within the
 27 United States. No bonds or securities pledged to secure, security entitle-
 28 ments and financial assets securing public deposits shall be left for safe-
 29 keeping deposited in any bank, trust company, or national bank which is
 30 owned directly or indirectly by any parent corporation of the depository
 31 bank, or with any bank, trust company, or national bank, having common
 32 controlling shareholders, having a common majority of the board of di-
 33 rectors or having common directors with the ability to control or influence
 34 directly or indirectly the acts or policies of the bank, state or federally
 35 chartered savings and loan association or federally chartered savings bank
 36 securing such public deposits. When bonds and securities, security enti-
 37 tlements and financial assets are deposited with the state treasurer as
 38 authorized by this subsection, the state treasurer shall make a charge for
 39 such service which is equivalent to the reasonable and customary charge
 40 made therefor. Securities, security entitlements and financial assets se-
 41 curing the deposits of any municipal corporation or quasi-municipal cor-
 42 poration may be deposited with the federal reserve bank of Kansas City
 43 to be there held in such manner, under regulations and operating letters

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1 of the bank, as to secure payment of the deposits of the municipal cor-
2 poration or quasi-municipal corporation in the depository institution.

3 (c) All such bonds and securities shall be deposited under a joint
4 custody receipt issued by a bank or trust company within the state of
5 Kansas or the federal reserve bank of Kansas City; the federal home loan
6 bank of Topeka or with the state treasurer. All bonds or securities held
7 by any depository and for which a joint custody receipt has been issued
8 shall be retained by such depository and not released except upon consent
9 of both the municipal corporation or quasi-municipal corporation making
10 the deposit and the bank; state or federally chartered savings and loan
11 association or federally chartered savings bank taking or securing such
12 deposit. In every report required to be published by any bank; state or
13 federally chartered savings and loan association or federally chartered
14 savings bank it shall show in full all of the assets pledged or deposited as
15 security for public moneys. The depository bank, savings and loan asso-
16 ciation or savings bank and any agent, trustee, wholly-owned subsidiary
17 or affiliate having identical ownership shall enter into a written agreement
18 with the municipal corporation or quasi-municipal corporation granting
19 the municipal corporation or quasi-municipal corporation a security in-
20 terest in the securities, security entitlements and financial assets qualified
21 under K.S.A. 9-1402, and amendments thereto, to secure payment of de-
22 posits of public moneys of the municipal corporation or quasi-municipal
23 corporation. Such security interests shall be perfected by the depository
24 bank, savings and loan association or savings bank and any agent, trustee,
25 wholly-owned subsidiary or affiliate having identical ownership causing
26 control of the securities, security entitlements and financial assets under
27 the Kansas uniform commercial code to be given to the municipality or
28 quasi-municipality. The security agreement and the custodial agreement
29 shall be in writing, approved by the board of directors of the depository
30 institution or its loan committee, which approval shall be reflected in the
31 minutes of the board or committee, and shall be maintained as an official
32 record of the depository institution.

33 (d) A bank, state or federally chartered savings and loan association
34 or federally chartered savings bank which fails to pay according to its
35 terms any deposit of public moneys of any municipal or quasi-municipal
36 corporation shall immediately take such actions as are required to enable
37 bonds and securities pledged to secure such deposit to be sold to satisfy
38 its obligation to the municipal or quasi-municipal corporation.

39 (e) As used in this section article 14 of chapter 9 of the Kansas Stat-
40 utes Annotated:

41 (1) "Centralized securities depository" means a clearing agency reg-
42 istered with the securities and exchange commission which provides safe-
43 keeping and book-entry settlement services to its participants; and

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1 (2) the terms securities, security entitlements, financial assets, secu-
2 rities account, security agreement, security interest, perfection and control
3 shall have the meanings given such terms under the Kansas uniform com-
4 mercial code.

5 Sec. 5. K.S.A. 9-1406 is hereby amended to read as follows: 9-1406.
6 No public officer nor the sureties upon such officer's bond shall be liable
7 for any loss sustained by the failure or default of any designated depository
8 or depositories after a deposit or deposits have been made in an officially
9 designated bank, state or federally chartered savings and loan association
10 or federally chartered savings bank as provided in this act. This exemption
11 from liability shall apply even though other statutes shall require the fur-
12 nishing of a bond or other securities by the designated depositories of
13 public moneys.

14 Sec. 6. K.S.A. 9-1407 is hereby amended to read as follows: 9-1407.
15 That portion of any deposit of public moneys or funds which is insured
16 by the federal deposit insurance corporation, or its successor, or the fed-
17 eral savings and loan insurance corporation, or its successor, need not be
18 secured as provided in this act.

19 Sec. 7. K.S.A. 1996 Supp. 12-1675 is hereby amended to read as
20 follows: 12-1675. (a) The governing body of any county, city, township,
21 school district, area vocational-technical school, community college, fi-
22 remen's relief association, community mental health center, community
23 facility for the mentally retarded or any other governmental entity, unit
24 or subdivision in the state of Kansas having authority to receive, hold and
25 expend public moneys or funds may invest any moneys which are not
26 immediately required for the purposes for which the moneys were col-
27 lected or received, and the investment of which is not subject to or reg-
28 ulated by any other statute.

29 (b) Such moneys shall be invested only:

30 (1) In temporary notes or no-fund warrants issued by such investing
31 governmental unit;

32 (2) In time deposit, open accounts or certificates of deposit with ma-
33 turities of not more than two years: (A) In commercial banks which have
34 offices located in such investing governmental unit; or (B) if the office of
35 no commercial bank is located in such investing governmental unit; then
36 in commercial banks or time certificates of deposit with maturities of not
37 more than two years: (A) In banks and savings and loan associations
38 incorporated under the laws of this state, and banks, savings and loan
39 associations and savings banks organized under the laws of the United
40 States and having [their main offices] in this state, which [have offices] lo-
41 cated in such investing governmental unit; or (B) if no office of a bank or
42 savings and loan association incorporated under the laws of this state, or
43 bank, savings and loan association or savings bank organized under the

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1 laws of the United States and having its main office in this state is located an
 2 in such investing governmental unit, then in banks and savings and loan
 3 associations incorporated under the laws of this state, and banks, savings
 4 and loan associations and savings banks organized under the laws of the
 5 United States having their main offices in this state which have offices in
 6 the county or counties in which all or part of such investing governmental
 7 unit is located; an office
 and

8 (3) In time certificates of deposit with maturities of not more than
 9 two years: (A) With state or federally chartered savings and loan associ-
 10 ations or federally chartered savings banks which have offices located in
 11 such investing governmental unit; or (B) if the office of no state or feder-
 12 ally chartered savings and loan association or federally chartered savings
 13 bank is located in such governmental unit; then with state or federally
 14 chartered savings and loan associations or federally chartered savings
 15 banks which have offices in the county or counties in which all or part of
 16 such investing governmental unit is located;

17 (4) (3) In repurchase agreements with: (A) Commercial banks; state
 18 or federally chartered savings and loan associations or federally chartered
 19 savings banks Banks and savings and loan associations incorporated under
 20 the laws of this state, and banks, savings and loan associations and savings
 21 banks organized under the laws of the United States and having their
 22 main offices in this state which have offices located in such investing
 23 governmental unit, for direct obligations of, or obligations that are insured
 24 as to principal and interest by, the United States government or any
 25 agency thereof; or (B) (i) If the office of no commercial bank; state or
 26 federally chartered savings and loan association or federally chartered
 27 savings bank no office of a bank or savings and loan association incor-
 28 porated under the laws of this state, or a bank, savings and loan associ-
 29 ation or savings bank organized under the laws of the United States and

30 having its main office in this state is located in such investing govern- an
 31 mental unit; or (ii) If no commercial such bank, state or federally char-
 32 tered savings and loan association or federally chartered savings bank has
 33 having an office located in such investing governmental unit is willing to
 34 enter into such an agreement with the investing governmental unit at an
 35 interest rate equal to or greater than the investment rate, as defined in
 36 subsection (i) (j) of K.S.A. 75-4201, and amendments thereto, then such
 37 repurchase agreements may be entered into with commercial banks; state
 38 or federally chartered savings and loan associations or federally chartered
 39 savings banks banks and savings and loan associations incorporated under
 40 laws of this state, and banks, savings and loan associations and savings
 41 banks organized under the laws of the United States and having their
 42 main offices in this state which have offices in the county or counties in
 43 which all or part of such investing governmental unit is located; or (C) if

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1 no bank; state or federally chartered savings and loan association or fed-
 2 erally chartered savings bank which has its or savings and loan association
 3 incorporated under the laws of this state, or bank, savings and loan as-
 4 sociation or savings bank organized under the laws of the United States
 5 and having [its main] office in this state having an office in such county or
 6 counties is willing to enter into such an agreement with the investing
 7 governmental unit at an interest rate equal to or greater than the invest-
 8 ment rate, as defined in subsection (l) (j) of K.S.A. 75-4201, and amend-
 9 ments thereto, then such repurchase agreements may be entered into
 10 with commercial banks; state or federally chartered savings and loan as-
 11 sociations or federally chartered savings banks which have offices in the
 12 state of Kansas banks and savings and loan associations incorporated
 13 under the laws of this state, and banks, savings and loan associations and
 14 savings banks organized under the laws of the United States and having
 15 [their main offices] in this state;

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16 (5) (4) In United States treasury bills or notes with maturities as the
 17 governing body shall determine, but not exceeding two years. Such in-
 18 vestment transactions shall only be conducted with the following; which
 19 is doing business within the state of Kansas; any state or national bank;
 20 state or federally chartered savings and loan association; or federally char-
 21 tered savings bank banks and savings and loan associations incorporated
 22 under the laws of this state, and banks, savings and loan associations and
 23 savings banks organized under the laws of the United States and having
 24 [their main offices] in this state; the federal reserve bank of Kansas City,
 25 Missouri; or with primary government securities dealers which report to
 26 the market report division of the federal reserve bank of New York, or
 27 any broker-dealer engaged in the business of selling government securi-
 28 ties which is registered in compliance with the requirements of section
 29 15 or 15C of the securities exchange act of 1934 and registered pursuant
 30 to K.S.A. 17-1254, and amendments thereto;

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31 (6) (5) In the municipal investment pool fund established in K.S.A.
 32 1996 Supp. 12-1677a, and amendments thereto;

33 (7) (6) In the investments authorized and in accordance with the con-
 34 ditions prescribed in K.S.A. 1996 Supp. 12-1677b, and amendments
 35 thereto; or

36 (8) (7) In multiple municipal client investment pools managed by the
 37 trust departments of commercial banks incorporated under the laws of
 38 this state and banks organized under the laws of the United States and
 39 having [their main offices] in this state, which have offices located in the
 40 county or counties where such investing governmental unit is located or
 41 with trust companies incorporated under the laws of this state which have
 42 contracted to provide trust services under the provisions of K.S.A. 9-2107,
 43 and amendments thereto, with commercial banks incorporated under the

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1 laws of this state and banks organized under the laws of the United States
 2 and having their main offices in this state which have offices located in
 3 the county or counties in which such investing governmental unit is lo-
 4 cated. Public moneys invested under this paragraph shall be secured in
 5 the same manner as provided for under K.S.A. 9-1402, and amendments
 6 thereto. Pooled investments of public moneys made by trust departments
 7 under this paragraph shall be subject to the same terms, conditions and
 8 limitations as are applicable to the municipal investment pool established
 9 by K.S.A. 1996 Supp. 12-1677a, and amendments thereto.

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10 (c) The investments authorized in paragraphs (4), (5), (6), or (7) or
 11 (8) of subsection (b) shall be utilized only if the appropriate eligible com-
 12 mercial banks, which have offices located in the investing governmental
 13 unit or in the county or counties in which all or a part of such investing
 14 governmental unit is located if no such bank has an office which is located
 15 within such governmental unit; or the appropriate eligible state or fed-
 16 erally chartered savings and loan associations or federally chartered sav-
 17 ings banks, which have offices located in the investing governmental unit
 18 or in the county or counties in which all or a part of such investing gov-
 19 ernmental unit is located if no such state or federally chartered savings
 20 and loan association or federally chartered savings bank has an office
 21 which is located within such governmental unit banks, savings and loan
 22 associations and savings banks eligible for investments authorized in par-
 23 agraph (2) of subsection (b), cannot or will not make the investments
 24 authorized in paragraph (2) or (3) of subsection (b) available to the in-
 25 vesting governmental unit at interest rates equal to or greater than the
 26 investment rate, as defined in subsection (l) (j) of K.S.A. 75-4201, and
 27 amendments thereto.

28 (d) In selecting a depository pursuant to paragraph (2) or (3) of sub-
 29 section (b), if a commercial bank, state or federally chartered savings and
 30 loan association or federally chartered savings bank eligible for an invest-
 31 ment deposit thereunder has an office located in the investing govern-
 32 mental unit and such financial institution will make such deposits available
 33 to the investing governmental unit at interest rates equal to or greater
 34 than the investment rate, as defined in subsection (l) (j) of K.S.A. 75-
 35 4201, and amendments thereto, and such financial institution otherwise
 36 qualifies for such deposit, the investing governmental unit shall select one
 37 or more of such eligible financial institutions for deposit of funds pursuant
 38 to this section. If no such financial institution qualifies for such deposits,
 39 the investing governmental unit shall select for such deposits one or more
 40 commercial eligible banks, state or federally chartered savings and loan
 41 associations or federally chartered savings banks which have offices in the
 42 county or counties in which all or a part of such investing governmental
 43 unit is located which will make such deposits available to the investing

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1 governmental unit at interest rates equal to or greater than the investment
2 rate, as defined in subsection (i) (j) of K.S.A. 75-4201, and amendments
3 thereto, and which otherwise qualify for such deposits.

4 (e) (1) All security purchases and repurchase agreements shall occur
5 on a delivery versus payment basis.

6 (2) All securities, including those acquired by repurchase agreements,
7 shall be perfected in the name of the investing governmental unit and
8 shall be delivered to the purchaser or a third-party custodian which may
9 be the state treasurer.

10 Sec. 8. K.S.A. 12-1676 is hereby amended to read as follows: 12-
11 1676. Except as otherwise provided in K.S.A. 12-1678a, and amendments
12 thereto, the provisions of this act authorizing the investment of moneys
13 shall not apply to moneys collected or received by a county for appor-
14 tionment, credit or distribution to the state or any political subdivision
15 thereof. Interest paid by ~~commercial~~ *eligible* banks, *savings and loan as-*
16 *sociations and savings banks* on time deposit, open accounts, *time certifi-*
17 *icates of deposit* and certificates of deposit of investing governmental units
18 and by state or federally chartered savings and loan associations or fed-
19 erally chartered savings banks on time certificates of deposit of investing
20 governmental units shall be at rates agreed upon by the governmental
21 units and the *eligible* banks, state or federally chartered savings and loan
22 associations or federally chartered savings banks.

23 Sec. 9. K.S.A. 1996 Supp. 12-1677a is hereby amended to read as
24 follows: 12-1677a. (a) Moneys deposited by any municipality with the
25 state treasurer for investment authorized in paragraph (6) (5) of subsec-
26 tion (b) of K.S.A. 12-1675, and amendments thereto, shall be deposited
27 in the municipal investment pool fund which is hereby created in the
28 state treasury. The state treasurer shall provide the board a monthly rec-
29 ord of the deposits and withdrawals of municipalities. Such record may
30 include the amount of the deposit, the date of the deposit and such other
31 information as the pooled money investment board may require.

32 (b) The director of investments may invest and reinvest moneys in
33 the municipal investment pool fund in accordance with investment poli-
34 cies established by the pooled money investment board under K.S.A. 75-
35 4232, and amendments thereto, and in accordance with K.S.A. 1996
36 Supp. 75-4234 and K.S.A. 75-4209, and amendments thereto.

37 (c) The director of investments shall apportion earnings and losses
38 among the accounts of the depositors in the various investment options
39 of the municipal investment pool in accordance with policies approved
40 and published by the board. A statement for each municipality partici-
41 pating unit account showing deposits, withdrawals, earnings and losses
42 distributions shall be provided monthly to the municipality. The director
43 of investments shall make comprehensive reports monthly to those mu-

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1 municipalities participating in the municipal investment pool fund and to
2 other interested parties requesting such reports. Such reports shall in-
3 clude a summary of transactions for the month, the current market value
4 of the pooled money investment portfolio investments, the weighted av-
5 erage maturity of the portfolio, the original costs of the investments in
6 the portfolio, including any fees associated with such investments and
7 such other relevant information the director of investments may wish to
8 include in such report.

9 (d) The municipal investment pool reserve fund is abolished effective
10 July 1, 1996, and any unencumbered balance remaining therein shall be
11 applied to net losses in the municipal investment pool fund. The munic-
12 ipal investment pool fund fee fund is abolished on July 1, 1997, and any
13 unencumbered balance remaining therein shall be transferred to the
14 pooled money investment portfolio fee fund and such amounts shall be
15 applied to net losses, as of July 1, 1996, in the municipal investment pool
16 fund.

17 (e) The pooled money investment board may adopt rules and regu-
18 lations necessary for the administration and operation of the municipal
19 investment pool fund and may enter into agreements with any munici-
20 pality as to methods of deposits, withdrawals and investments.

21 (f) Deposits in the municipal investment pool fund: (1) May only be
22 made for the same maturity as the maturity which is offered under par-
23 agraphs (2) and (3) paragraph (2) of subsection (b) of K.S.A. 12-1675 and
24 amendments thereto; and (2) upon the maturity of such deposits, such
25 moneys shall be offered for investment under paragraphs (2) or (3) par-
26 agraph (2) of subsection (b) of K.S.A. 12-1675, and amendments thereto,
27 and may be reinvested in such fund only if the conditions contained in
28 subsection (c) of K.S.A. 12-1675, and amendments thereto, have been
29 satisfied.

30 (g) Moneys and investments in the municipal investment pool fund
31 shall be managed by the pooled money investment board in accordance
32 with investment policies provided for in K.S.A. 75-4209, and amendments
33 thereto. A copy of such published policies shall be distributed to all mu-
34 nicipalities participating in the municipal investment pool fund and to
35 other interested persons requesting a copy of such policies. The pooled
36 money investment board shall not contract for management of invest-
37 ments by a money manager.

38 (h) For the purpose of this section, "municipality" means those en-
39 tities specified in subsection (a) of K.S.A. 12-1675, and amendments
40 thereto, and K.S.A. 1996 Supp. 75-4263, and amendments thereto.

41 Sec. 10. K.S.A. 1996 Supp. 12-1677b is hereby amended to read as
42 follows: 12-1677b. (a) The governing body of any city or county which
43 has a written investment policy approved by the governing body of such

1 city or county and approved by the pooled money investment board may
2 invest and reinvest pursuant to the approved investment policy in the
3 following investments, as authorized under paragraph (7) (6) of subsec-
4 tion (b) of K.S.A. 12-1675, and amendments thereto:

5 (1) Direct obligations of, or obligations that are insured as to principal
6 and interest by, the United States of America or any agency thereof and
7 obligations and securities of United States sponsored enterprises which
8 under federal law may be accepted as security for public funds, except
9 that such investments shall not be in mortgage-backed securities;

10 (2) interest-bearing time deposits in any of the following, which is
11 ~~doing business within the state of Kansas; any state or national bank; state~~
12 ~~or federally chartered savings and loan association; or federally chartered~~
13 ~~savings bank banks and savings and loan associations incorporated under~~
14 ~~the laws of this state, and banks, savings and loan associations and savings~~
15 ~~banks organized under the laws of the United States and having their~~
16 ~~main offices in this state; or~~

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17 (3) repurchase agreements with a Kansas bank, savings and loan as-
18 sociation; a federally chartered savings bank banks and savings and loan
19 associations incorporated under the laws of this state, and banks, savings
20 and loan associations and savings banks organized under the laws of the
21 United States and having their main offices in this state or with a primary
22 government securities dealer which reports to the market reports division
23 of the federal reserve bank of New York for direct obligations of, or
24 obligations that are insured as to principal and interest by, the United
25 States government or any agency thereof and obligations and securities
26 of United States government sponsored enterprises which under federal
27 law may be accepted as security for public funds.

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28 (b) The investment policy of any city or county approved by the
29 pooled money investment board under this section shall be reviewed and
30 approved at least annually by such board or when such city or county
31 makes changes in such investment policy.

32 (c) City and county investment policies shall address liquidity, diver-
33 sification, safety of principal, yield, maturity and quality, and capability of
34 investment management staff.

35 (d) (1) All security purchases shall occur on a delivery versus pay-
36 ment basis.

37 (2) All securities shall be perfected in the name of the city or county
38 and shall be delivered to the purchaser or a third party custodian which
39 may be the state treasurer.

40 (3) Investment transactions shall only be conducted with the follow-
41 ing, which is doing business within the state of Kansas; any state or na-
42 tional bank, state or federally chartered savings and loan association; or
43 federally chartered savings bank banks and savings and loan associations

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1 incorporated under the laws of this state, and banks, savings and loan
 2 associations and savings banks organized under the laws of the United
 3 States and having their main offices in this state; or with primary govern-
 4 ment securities dealers which report to the market report division of the
 5 federal reserve bank of New York; or any broker-dealer which is regis-
 6 tered in compliance with the requirements of section 15C of the securities
 7 exchange act of 1934 and registered pursuant to K.S.A. 17-1254, and
 8 amendments thereto.

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9 (4) The maximum maturity for investments under subsection (a) shall
 10 be four years.

11 (e) Investments in securities under paragraph (1) of subsection (a)
 12 shall be limited to securities which do not have any more interest rate
 13 risk than do direct United States government obligations of similar ma-
 14 turities. For purposes of this subsection, "interest rate risk" means market
 15 value changes due to changes in current interest rates.

16 (f) A city or county which violates subsection (c) or (d) of K.S.A. 12-
 17 1675 and amendments thereto or the rules and regulations of the pooled
 18 money investment board shall forfeit its rights under this section for a
 19 two year period and shall be reinstated only after a complete review of
 20 its investment policy as provided for in subsection (b). Such forfeiture
 21 shall be determined by the pooled money investment board after notice
 22 and opportunity to be heard in accordance with the Kansas administrative
 23 procedure act.

24 Sec. 11. K.S.A. 17-5002 is hereby amended to read as follows: 17-
 25 5002. (a) Administrators, executors, conservators, trustees, insurance
 26 companies and other financial institutions, charitable, educational, elee-
 27 mosynary corporations and organizations are authorized, in addition to
 28 investments now authorized by law, to invest funds which they are au-
 29 thorized by law to invest, in shares or savings deposits of federally insured
 30 savings and loan associations or federally chartered savings banks with
 31 home main offices in the state of Kansas and in credit unions which are,
 32 in whole or in part, insured with an insurer or guarantee corporation as
 33 required under K.S.A. 17-2246, and amendments thereto, and such in-
 34 vestment shall be deemed and held to be legal investments for such funds.

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35 (b) The governing body of any municipal corporation or quasi-mu-
 36 nicipal corporation, county, township, school district, area vocational-
 37 technical school, community college, firemen's relief association, com-
 38 munity mental health center, community facility for the mentally retarded
 39 or any other governmental entity, unit or division in the state of Kansas
 40 having authority to receive, hold and expend public moneys or funds may
 41 invest the same in state or federally chartered savings and loan associa-
 42 tions incorporated under the laws of this state, and savings and loan as-
 43 sociations or federally chartered savings banks organized under the laws

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1 of the United States with home [main offices] in the state of Kansas subject
2 to and as provided by K.S.A. 9-1401, 9-1402, 9-1405, 9-1407, 12-1675
3 and 12-1676 and amendments to such sections thereto.

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4 Sec. 12. K.S.A. 1996 Supp. 75-4201 is hereby amended to read as
5 follows: 75-4201. As used in this act, unless the context otherwise re-
6 quires:

7 (a) "Treasurer" means state treasurer.

8 (b) "Controller" means director of accounts and reports.

9 (c) "Board" means the pooled money investment board.

10 (d) "Bank" means a state bank incorporated under the laws of Kansas
11 or a national bank having [such bank's home main] office within the state
12 of Kansas.

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13 (e) "State moneys" means all moneys in the treasury of the state or
14 coming lawfully into the possession of the treasurer.

15 (f) "State bank account" means state moneys or fee agency account
16 moneys deposited in accordance with the provisions of this act.

17 (g) "Operating account" means a state bank account which is payable
18 or withdrawable, in whole or in part, on demand.

19 (h) "Investment account" means a state bank account which is not
20 payable on demand.

21 (i) "Market rate" means the average of the average equivalent yields,
22 with equivalent maturities, of: (1) United States government securities;
23 and (2) debt obligations of the following United States government agen-
24 cies, federal home loan banks, federal national mortgage association and
25 federal farm credit bank.

26 (j) "Investment rate" means a rate which is the equivalent yield for
27 United States government securities having a maturity date as published
28 in the Wall Street Journal, nearest the maturity date for equivalent ma-
29 turities. The 0-90 day rate shall be computed on the average effective
30 federal funds rate as published by the federal reserve system for the
31 previous week.

32 (k) "Fee agency account" means a state bank account of any state
33 agency consisting of fees, tuition or charges authorized by law prior to
34 remittance to the state treasurer.

35 (l) "Disbursement" means a payment of any kind whatsoever made
36 from the state treasury or from any operating account, except transfer of
37 moneys between or among operating accounts and investment accounts
38 or either or both of them.

39 (m) "Securities" means, for the purposes of K.S.A. 75-4218, and
40 amendments thereto, any one or more of the following, which may be
41 accepted or rejected by the pooled money investment board:

42 (1) Direct obligations of, or obligations that are insured as to principal
43 and interest by, the United States government or any agency thereof and

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1 obligations, letters of credit and securities of United States sponsored
2 enterprises which under federal law may be accepted as security for pub-
3 lic funds.

4 (2) Kansas municipal bonds which are general obligations of the mu-
5 nicipality issuing the same.

6 (3) Revenue bonds of any agency or arm of the state of Kansas.

7 (4) Revenue bonds of any municipality, as defined by K.S.A. 10-101,
8 and amendments thereto, within the state of Kansas or bonds issued by
9 a public building commission as authorized by K.S.A. 12-1761, and
10 amendments thereto, if approved by the state bank commissioner, except
11 (A) bonds issued under the provisions of K.S.A. 12-1740 *et seq.*, and
12 amendments thereto, unless such bonds are rated at least MIG-1 or Aa
13 by Moody's Investors Service or AA by Standard & Poor's Corp. and (B)
14 bonds secured by revenues of a utility which has been in operation for
15 less than three years. Any expense incurred in connection with granting
16 approval of revenue bonds shall be paid by the applicant for approval.

17 (5) Temporary notes of any municipal corporation or quasi-municipal
18 corporation within the state of Kansas which are general obligations of
19 the municipal corporation or quasi-municipal corporation issuing the
20 same.

21 (6) Warrants of any municipal corporation or quasi-municipal cor-
22 poration within the state of Kansas the issuance of which is authorized
23 by the state board of tax appeals and which are payable from the proceeds
24 of a mandatory tax levy.

25 (7) Bonds of any municipal or quasi-municipal corporation of the
26 state of Kansas which have been refunded in advance of their maturity
27 and are fully secured as to payment of principal and interest thereon by
28 deposit in trust, under escrow agreement with a bank, of direct obligations
29 of, or obligations the principal of and the interest on which are uncon-
30 ditionally guaranteed by, the United States of America. A copy of such
31 escrow agreement shall be furnished to the treasurer.

32 (8) Securities listed in paragraph (13) of subsection (d) of K.S.A. 9-
33 1402 and amendments thereto within limitations of K.S.A. 9-1402 and
34 amendments thereto.

35 (9) A corporate surety bond guaranteeing deposits in a bank, savings
36 or savings and loan association in excess of federal deposit insurance cor-
37 poration insurance, underwritten by an insurance company authorized to
38 do business in the state of Kansas.

39 (10) Commercial paper that does not exceed 270 days to maturity
40 and which has received one of the two highest commercial paper credit
41 ratings by a nationally recognized investment rating firm.

42 (11) All of such securities shall be current as to interest according to
43 the terms thereof.

61-87

1 (12) Whenever a bond is authorized to be pledged as a security under
 2 this section, such bond shall be accepted as a security if: (i) In the case
 3 of a certificated bond, it is assigned, delivered or pledged to the holder
 4 of the deposit for security; (ii) in the case of an uncertificated bond,
 5 registration of a pledge of the bond is authorized by the system and the
 6 pledge of the uncertificated bond is registered; or (iii) in a form approved
 7 by the attorney general, which assures the availability of the bond pro-
 8 ceeds pledged as a security for public deposits.

9 (n) "Savings bank" means a federally chartered savings bank insured
 10 by the federal deposit insurance corporation or its successor and doing
 11 business having its main office within the state of Kansas.

12 (o) "Savings and loan association" means a state or federally chartered
 13 savings and loan association insured by the federal deposit insurance cor-
 14 poration or its successor and doing business having its main office within
 15 the state of Kansas.

16 (p) "Custodial bank" means a bank designated to keep safely collat-
 17 eral pledged as security for state bank accounts.

18 (q) "Centralized securities depository" means a clearing agency reg-
 19 istered with the securities and exchange commission which provides safe-
 20 keeping and book-entry settlement services to its participants.

21 (r) "Depository bank" means a bank, savings bank or savings and loan
 22 association authorized and eligible to receive state moneys.

23 Sec. 13. K.S.A. 1996 Supp. 75-4218 is hereby amended to read as
 24 follows: 75-4218. (a) All state bank accounts shall be secured by pledge
 25 of securities as provided in this section.

26 (b) The bank, savings bank or savings and loan association receiving
 27 or having a state bank account shall deposit or cause its affiliate bank to
 28 deposit securities acceptable to the board and owned by it or by its affiliate
 29 bank, in one of the following ways:

30 (1) Deposit with the treasurer.

31 (2) Deposit with a custodial bank having adequate modern facilities
 32 for the safekeeping of securities which shall have had the prior approval
 33 of the board. Any such custodial bank receiving securities for safekeeping
 34 shall be liable to the state for any loss suffered by the state in the event
 35 such custodial bank relinquishes the custody of any such securities con-
 36 trary to the provisions of this act or rules and regulations adopted there-
 37 under. This section shall not prohibit any custodial bank receiving secu-
 38 rities for safekeeping from issuing a joint custody receipt and placing
 39 those securities in such bank's account with any bank chartered in Kansas
 40 or any other state, any trust company chartered in Kansas or any other
 41 state, any national bank, or any centralized securities depository wherever
 42 located within the United States. No bonds or securities pledged to secure
 43 public deposits shall be left for safekeeping in any bank, trust company,

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2-20

1 or national bank which is owned directly or indirectly by any parent cor-
2 poration of the depository bank, or with any bank, trust company, or
3 national bank, having common controlling shareholders, having a com-
4 mon majority of the board of directors or having common directors with
5 the ability to control or influence directly or indirectly the acts or policies
6 of the bank, state or federally chartered savings and loan association or
7 federally chartered savings bank securing such public deposits.

8 (3) Deposit with the federal reserve bank of Kansas City, Missouri.

9 (4) Deposit with the federal home loan bank of Topeka, Kansas.

10 (5) Any combination of (1), (2), (3) and (4).

11 (c) The depository bank shall obtain a written agreement from its
12 affiliate bank that the affiliate bank grants a security interest to the state
13 of Kansas in securities owned by the affiliate bank which are pledged on
14 behalf of the depository bank to secure payment of deposits made with
15 the depository bank pursuant to this section. Such agreement shall be
16 approved by the board of directors of the affiliate bank and reflected in
17 its minutes. From the time of execution of such agreement, the agree-
18 ment shall remain continuously an official record of the affiliate bank.
19 Any such deposit of securities, except with the treasurer, shall have a joint
20 custody receipt which shall constitute a perfected security interest taken
21 therefor with one copy going to the treasurer and one copy going to the
22 bank, savings bank or savings and loan association which deposits such
23 securities. In lieu of the initial deposit of securities provided for in this
24 subsection (c), the treasurer or the treasurer's duly authorized deputy,
25 for a period of not to exceed 10 calendar days, may accept the telephone
26 assurance of a bank qualified as provided in (2) or (3) of subsection (b),
27 that the depository bank has requested the issuance of a joint custody
28 receipt with the state of Kansas, specifying the securities pledged, for the
29 purpose of compliance with this section and that such joint custody re-
30 ceipt will be forthcoming.

31 (d) The depository bank, the board and the custodial bank shall enter
32 into a written agreement for the safekeeping of securities and the agree-
33 ment shall be maintained in the records of the depository bank.

34 (e) Securities deposited to comply with this section may be with-
35 drawn on application of the bank, savings bank or savings and loan asso-
36 ciation depositing the securities, if such application is approved by the
37 treasurer or the treasurer's duly authorized deputy for the reason that
38 such deposit of securities is no longer needed to comply with this section
39 or are required for collection by virtue of their maturity or for exchange.
40 Securities withdrawn for collection by virtue of their maturity or for
41 exchange shall be replaced within 15 calendar days, but until replaced
42 the state shall retain a first lien on the withdrawn security or the proceeds
43 therefrom.

1 (f) Operating accounts, investment accounts and fee agency accounts
2 shall be secured by pledge of securities, the market value of which is
3 equal to 100% of the amount of the deposits in the account plus accrued
4 interest, less the amount of deposits in the account protected by the
5 federal deposit insurance corporation. Any agency responsible for a fee
6 agency account shall transfer immediately all moneys not so secured to
7 the state treasurer for deposit in the state treasury.

8 Sec. 14. K.S.A. 9-1401, 9-1403, 9-1406, 9-1407, 12-1676 and 17-5002
9 and K.S.A. 1996 Supp. 9-1402, 9-1405, 12-1675, 12-1677a, 12-1677b, 75-
10 4201 and 75-4218 are hereby repealed.

11 Sec. 15. This act shall take effect and be in force from and after its
12 publication in the statute book.

2-22

**Testimony Before the Senate Finance and Insurance Committee
Fred Kaufman
January 28, 1997**

Chairperson and Members of the Committee,

I would like to thank you for allowing me to express my opinion in the matter of 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. I would like to share with you last week's example. Last week 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 listening to me. 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.

Senate F&I
Attachment 3
1/28/97



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

January 27, 1997

TO: Senate Committee on Financial Institutions and Insurance

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

SUBJ.: Senate Bill 86

Chairman Steffes and Members of the Committee:

I am here today on behalf of the City of Overland Park to express our support for an amendment offered by the League of Kansas Municipalities to Senate Bill 86.

The City of Overland Park opposes any legislative action that reduces the city's flexibility in managing its affairs and finances. Restricting the number of financial institutions eligible to serve as the city's depository will make it 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 avoid legislative actions that will limit our ability to respond to these market changes, and that you adopt the proposed League amendment.

Senate F.D.D.
Attachment #
1/28/97 ~~3~~



KANSAS ASSOCIATION OF COMMUNITY COLLEGES

Jayhawk Tower, Suite 401 • 700 S.W. Jackson • Topeka, KS 66603

W. Merle Hill
Executive Director

Phone 913/357-5156
Fax 913/357-5157

To: Senate Committee on Financial Institutions & Insurance
From: Merle Hill, Executive Director, Kansas Association of Community Colleges
Date: January 28, 1997
Subj: FAXed Testimony From Lawrence Mahoney, Dean of Administrative Services, Garden City Community College

FAX

Date 01/24/97

Number of pages including cover sheet 1

TO:

W. Merle Hill
Executive Director
KACC
Jayhawk Tower, Suite 401
700 S.W. Jackson
Topeka, KS 66603

Phone 913-357-5156

Fax Phone 913-357-5157

FROM:

Lawrence E. Mahoney
Garden City Community College
801 Campus Drive
Garden City, KS 67846

Phone 316/276-9577

Fax Phone 316/276-9573

CC:

*Senate F&I
Attachment 5
Jan 28, 1997*

REMARKS: Urgent For your review Reply ASAP Please Comment

Garden City Community College currently uses Bank IV utilizing several of its services. The way that we selected these services involved a selection (bid) process in which the college was interested in receiving the best service at the lowest cost.

As an example we direct deposit the college payroll with Bank IV by modem. They have current technology allowing us to take advantage of our computer system and software and as we bid this service they also provided it at the lowest cost. I think 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.

Today many of the public institutions in Kansas could get by without using Bank IV services. Who knows about what banking services we might need in the future and not be able to take advantage of because of this "main bank" concept. We need to remember that it is important to receive the best service at the lowest possible cost.



SEDGWICK COUNTY, KANSAS

INTERGOVERNMENTAL RELATIONS

WILLIE MARTIN

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

TO: Senate Committee on Financial Institutions
and Insurance

FROM: Willie Martin, Intergovernmental Relations

DATE: January 28, 1997

SUBJ: Senate Bill 86 - Deposit of Public Moneys

Senate Bill 86 would create a problem with the effective and efficient management of Sedgwick County moneys.

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 fulfil 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.

The bill, as drafted, would require Sedgwick County 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.

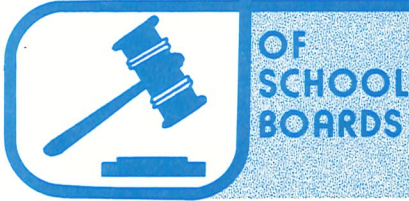
Senate Filed
Attachment 6
1/28/97

We currently require and utilize the following services:

1. Receipt and transfer of securities held as collateral. (volume and 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.



1420 S.W. Arrowhead Rd, Topeka, Kansas 66604
913-273-3600

Testimony on S.B. 86
before the
Senate Committee on Financial Institutions and Insurance

by

Norm Wilks, Director of Labor Relations
Kansas Association of School Boards

January 28, 1997

Mr. Chairman and members of the Committee, on behalf of the united school boards of education and other members of the Kansas Association of School Boards, we wish to express our thanks for the opportunity to discuss the policy issues contained in S.B. 86.

The first issue deals with the definition of a Kansas bank or savings and loan association. The policy issue as set forth in S.B. 86 would limit available banks or savings and loans in which governmental entities could deposit funds. Several governmental entities have experienced problems finding depositories to take all deposits at times of high volume of tax collection and revenue transfers under current law. It would seem counterproductive at this point to limit the number of banks or savings and loans eligible to take municipal funds when they are qualified to do business in the state of Kansas. In today's world of electronic transfers, corporate mergers, branch banks, bank mergers and acquisitions, it seems too restrictive to remove banks or savings and loans qualified to do business in the state of Kansas from the acceptance of public funds because of the location of the home office.

The second policy issue we would like to raise involves the geographical limitation on the deposit of investment funds. Banking has changed dramatically since the geographical restrictions of the current statute were created. Today, the same bank or savings and loan may have branch offices in several communities and school districts. To artificially restrict the investment of municipal funds to qualified banks because of their geographical location seems counterproductive to an open market concept.

Senate F R D
Attachment 7
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We believe that S.B. 86 should be amended by changing Section 7 to allow investments as set forth in paragraph (2) of subsection (b) to include time deposits, open accounts, certificates of deposit or timed certificates of deposit with maturities of not more than two (2) years in the banks and savings and loans that may be qualified to accept governmental deposits. The same change should be made in subparagraph (3) dealing with repurchase agreements. Also subparagraph (c) and (d) on page 11 should be changed. The affect is to remove the geographical restriction to banks or savings and loans that have offices located in the investing governmental unit.

Such action would not prevent a local governmental entity from investing in the local bank or the local branch of a larger bank. Such amendment would allow the local governing body to choose the financial institutions for investment purposes and still ensure that adequate security is provided for all governmental funds. Kansas municipalities should be allowed to deposit funds in any bank or savings and loan authorized to do business in this state and be provided adequate security.

Any 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 security for such deposit.

Thank you for your consideration of this matter.

Dewton Toale
State Banking Commissioner

9-1104. Limitation on loans; exceptions; date for determination of legality of loan; liability of bank officer or employee not to exceed certain amount; "unimpaired surplus fund" defined; order to reduce excess loan to legal limit.(a) Definitions. For purposes of this section:

(1) "Borrower" means an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, limited liability company, not for profit corporation, government unit or agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

(2) "Capital" means the total of capital stock, surplus, undivided profits, 100% of the allowance for loan and lease loss, capital notes and debentures, and reserve for contingencies. Intangibles, such as goodwill, shall not be included in the definition of capital when determining lending limits.

(3) "Loan" means:

(A) A bank's direct or indirect advance of funds to or on behalf of a borrower based on an obligation of the borrower to repay the funds;

(B) a contractual commitment to advance funds;

(C) an overdraft;

(D) loans that have been charged off the bank's books in whole or in part, unless the loan is unenforceable by reason of:

(i) Discharge in bankruptcy;

(ii) expiration of the statute of limitations;

(iii) judicial decision; or

(iv) the bank's forgiveness of the debt.

(b) General Lending Limit Rule. Subject to the provisions in (d),(e) and (f), loans to one borrower, including any bank officer or employee, shall not exceed 25% of a bank's capital.

(c) Calculation of the Lending Limit.

(1) The bank's lending limit shall be calculated on the date the loan or written commitment is made. The renewal or refinancing of a loan shall not constitute a new lending limit calculation date unless new funds are advanced.

(2) If the bank's lending limit increases subsequent to the origination date, a bank may use the current lending limit to determine compliance when advancing funds. An advance of funds includes the lending of money or the repurchase of any portion of a participation.

(3) If the bank's lending limit decreases subsequent to the origination date, a bank shall not be prohibited from advancing on a prior commitment that was legal on the date the commitment was made.

(d) Exemptions. That portion of a loan which is continuously secured on a dollar for dollar basis by any of the following will be exempt from any lending limit:

(1) A guaranty, commitment or agreement to take over or to purchase, made by any federal reserve bank or by any department, bureau, board, commission, agency, or establishment of the United States of America, including any corporation wholly owned, directly or indirectly by the United States;

(2) a perfected interest in a time deposit account in the lending bank. In the case of a time deposit which may be

Senate F.D.S.D.
Attachment 8
1/28/97

withdrawn in whole or in part prior to maturity, the bank shall establish written internal procedures to prevent the release of the deposit (See Special Order 1995-1);

(3) a bonded warehouse receipt issued to the borrower by some other person;

(4) treasury bills, certificates of indebtedness, or bonds or notes of the United States of America or instrumentalities or agencies thereof, or those fully guaranteed by them;

(5) general obligation bonds or notes of the state of Kansas or any other state in the United States of America;

(6) general obligation bonds or notes of any Kansas municipality or quasi municipality; or

(7) a perfected interest in a repurchase agreement of U.S. government securities with the lending bank.

(e) Special Rules.

(1) The total liability of any borrower may exceed the general 25% limit by up to an additional 10% of the bank's capital. To qualify for this expanded limit:

(A) The bank shall have as collateral a first lien or liens on real estate securing a portion of the liability equal to at least the amount by which the total liability exceeds the 25% limit;

(B) the amount of the recorded lien or liens shall equal at least the amount of the excess liability;

(C) the appraised value of the real estate shall equal at least the amount of the excess liability; and

(D) a portion of the loan equal to at least the excess liability shall have installment payments sufficient to amortize that portion within 20 years.

(2) That portion of any loan endorsed or guaranteed by a borrower will not be added to that borrower's liability until the endorsed or guaranteed loan is past due ten days.

(3) If the total liability of any active bank officer will exceed \$50,000, prior approval from the bank's board of directors shall be noted in the minutes.

(4) To the extent they are insured by the federal deposit insurance corporation, time deposits purchased by a bank from another financial institution shall not be considered a loan to that financial institution and shall not be subject to the bank's lending limit.

(5) Third party paper purchased by the bank will not be considered a loan to the seller unless and until the bank has the right under the agreement to require the seller to repurchase the paper.

(f) Combination Rules.

(1) General Rule. Loans to one borrower will be attributed to another borrower and their total liability will be combined:

(A) When proceeds of a loan are to be used for the direct benefit of the other borrower, to the extent of the proceeds so used; or

(B) when a common enterprise is deemed to exist between the borrowers.

(2) Direct Benefit. The proceeds of a loan to a borrower will be deemed to be used for the direct benefit of another person and will be attributed to the other person when the proceeds, or assets purchased with the proceeds, are transferred to another person, other than in a bona fide arm's length transaction where the proceeds are used to acquire property, goods, or services.

(3) Common Enterprise. A common enterprise will be deemed to exist and loans to separate borrowers will be aggregated:

(A) When the expected source of repayment for each loan or extension of credit is the same for each borrower and neither borrower has another source of income from which the loan, together with the borrower's other obligations, may be fully repaid;

(B) when both of the following circumstances are present:

(i) Loans are made to borrowers who are related directly or indirectly through common control, including where one borrower is directly or indirectly controlled by another borrower. Common control means to own, control or have the power to vote 25% or more of any class of voting securities or voting interests or to control, in any manner, the election of a majority of the directors, or to have the power to exercise a controlling influence over the management or policies of another person; and

(ii) substantial financial interdependence exists between or among the borrowers. Substantial financial interdependence is deemed to exist when 50 percent or more of one borrower's gross receipts or gross expenditures (on an annual basis) are derived from transactions with the other borrower. Gross receipts and expenditures include gross revenues, expenses, intercompany loans, dividends, capital contributions and similar receipts or payments; or

(C) when separate persons borrow from a bank to acquire a business enterprise of which those borrowers will own more than 50% of the voting securities or voting interests, in which case a common enterprise is deemed to exist between the borrowers for purposes of combining the acquisition loan.

(D) An employer will not be treated as a source of repayment for purposes of determining a common enterprise because of wages and salaries paid to an employee.

(4) Special Rules for Loans to a Corporate Group.

(A) Loans by a bank to a borrower and the borrower's subsidiaries shall not, in the aggregate, exceed 50% of the bank's capital. At no time shall loans to any one borrower or to any one subsidiary exceed the general lending limit of 25%, except as allowed by other provisions of this section. For purposes of this paragraph, a corporation or a limited liability company is a subsidiary of a borrower if the borrower owns or beneficially owns directly or indirectly more than 50 percent of the voting securities or voting interests of the corporation or company.

(B) Loans to a borrower and a borrower's subsidiaries that do not meet the test contained in (f)(4)(A), will not be combined unless either the direct benefit or the common enterprise test is met.

(5) Special Rules for Loans to Partnerships, Joint Ventures, and Associations.

(A) As used in this subpart(5), the term "partnership" shall include a partnership, joint venture, or association. The term partner shall include a partner in a partnership or a member in a joint venture or association.

(B) General Partner. Loans to a partnership are considered to be loans to a partner, if by the terms of the partnership agreement that partner is held generally liable for debts or actions of the partnership.

(C) Limited Partner. If the liability of a partner is limited by the terms of the partnership agreement, the amount of the partnership debt attributable to the partner is in direct proportion to their limited partnership interest liability.

(D) Notwithstanding the provisions of subsection (f)(5)(B) and (f)(5)(C), if by the terms of the loan agreement the

liability of any partner is different than delineated in the partnership agreement, for the purpose of attributing debt to the partner the loan agreement shall control.

(E) Loans to a partner are not attributed to the partnership unless either the direct benefit or the common enterprise test is met.

(F) Loans to one partner are not attributed to other partners unless either the direct benefit or common enterprise test is met.

(G) When a loan is made to a partner to purchase an interest in a partnership, both the direct benefit and common enterprise tests are deemed to be met, and the loan is attributed to the partnership.

(6) Notwithstanding the provisions of this subsection, the commissioner may determine, based upon an evaluation of the facts and circumstances of a particular transaction, that a loan to one borrower may be attributed to another borrower.

(g)The commissioner may order a bank to correct any loan not in compliance with this section. A violation of this section shall be deemed corrected if that portion of the borrower's liability which created the violation could be legally advanced under current lending limits. Failure to comply with the commissioner's order within 60 days shall be grounds for the proposed removal of a bank officer or director pursuant to K.S.A. 9-1805 and amendments thereto.(L. 1996, ch. 171, §1; July 1.)

Senate Bill No. 86
Senate Committee on Financial Institutions
and Insurance
January 28, 1997

Testimony of Peggy A. Elliott
District Court Trustee
Tenth Judicial District

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of this bill. I appreciate your time and effort in attempting to pass legislation which will be in the best interest of city, county, and state government.

I support S.B. 86 as it is written with the exception of the provisions which make it mandatory for "banks, savings and loan associations and savings banks organized under the laws of this state, and the banks, savings and loan associations and savings banks organized under the laws of the United States" to have their "main offices" in this state. With the advent of electronic telecommunication and the speed in which business funds are routed all over the world in the community of international and interstate banking, I believe it is unnecessary and provincial to require that they have their "main office" in this State and that it is detrimental to business in this state as well as to all forms of municipal or quasi-municipal corporations who are required to deposit any funds in designated official depositories.

Senate FDs
Attachment 9
Jan. 28, 1997

I am the Johnson County District Court Trustee. Our office collects, disburses and enforces child support and maintenance. My office is one of those which will be impacted by this legislation. Our office was established in 1972 and from the very beginning we have deposited our funds with the same facility, "the bank across the street". First it was Patrons Bank, then Bank IV, last year it was bought out by Boatmen's and now it is NationsBank. However, to our good fortune, we have continued working with the same employees and this relationship continues to this day. Our deposits have grown from less than \$3,000.00 in 1972 to over \$55 million in 1996.

We have a difficult account to manage. Approximately 4,000 of our checks are processed each week. There are always problems with payments needing to be stopped and with reconciliation of our account. Our bookkeeping supervisor is allowed to stop payments on line. Bank statements are transmitted over telephone lines. We have an excellent working relationship with bank employees who understand our needs and are responsive to our unique problems. They know our account and are familiar with our many employer checks which are deposited because of income withholding.

We make daily deposits from which obligees cash their checks anywhere from two days after the deposit to, on some occasions, a year or so later. We must reconcile our account on a daily and weekly basis. It is necessary to have the cooperation and assistance of bank personnel in performing this reconciliation of our account.

If we are unable to continue banking with this institution after NationsBank assumes control, we will be forced to contract with an armored courier service to transport our deposits to a bank which has their "main offices in this state." Presently, and as it has always been, we have an employee (a former police officer) who takes our deposits across the street each day. If we are not allowed to continue using this facility, it will increase the cost of operation of our office.

An additional cost this year will be the cost of having new checks printed. Our normal practice is to order these checks only one time per year. Since the latest order was only delivered last fall, this will mean a loss of between \$6,000 - \$7,000 this year.

In this day and age we need to look at whether or not our old provincial laws are really serving us with the protections that gave rise to them in the first place. People are mobile today. We have access to new and computerized programs that effect all aspects of the business world. We in Kansas need to broaden our horizons. We need to ask ourselves, is it really important to limit governmental offices to having accounts in only those banks having a "main" office in Kansas?

Thank you very much for giving this matter your time and attention and I hope you will agree with me that in today's world it makes little difference whether a bank has a main office in our state. What should make the difference is the services they

perform, whether or not they are adaptable to the individual needs of the municipal or quasi-municipal patrons they serve and the convenience to the location of the office.

Subject: Senate Bill 86
Date: Mon, 27 Jan 1997 21:02:54 -0600
From: Ron Cousino <ronc41@ix.netcom.com>
Organization: Home
To: spraege@ink.org, brownlee@wwi.net

Honorable Senators Spraege and Brownlee:

Permit me to introduce myself to you. My name is Ron Cousino and I am a member of the Board of Education, USD 233. My interest in the Senate Bill 86 comes out of a recent issue facing the Board. The current law prohibits the district to deposit its public funds into a very sound financial institution, Boatmen's Bank. We recently took bids on banking relations and Boatmen's was the clear winner and was subsequently approved by the Board as our primary bank.

When the merger of this bank took place from a financial institution that did not and would not have their "main office" in the state because of their national presence and their size, the board review the current statutes and determined that this is issue of "main office in Kansas". This was a technical legal issue rather than a sound financial reason.

Clearly the new controlling bank had and continues to have sound financial credits based upon both LACE and Sheshunoff raters. Clearly their presence is here in Kansas and will continue to grow with Kansas. as one elected official who tries to look at issues of adding the most value to their jurisdiction, we must look at the financial strength of banks and not merely at whether they have "main offices" in Kansas. Clearly, if this is the sole criteria for placement of public funds, we are doing a disservice to those who have given us the fiduciary responsibility to watching over the taxes we collect. I would only remind everyone that it was not too long ago that many banks through the nation went into bankruptcy. And yes, there were even some in Kansas with main offices in our State. This is why we need a much higher standard for placement of public funds.

I would urge you to consider the amendments to this bill which will provide for having an "office" in Kansas rather than a "main office.. Clearly, we, as elected officials, can make decisions based on financial value rather than something less important.

This email may be given to other members of your committee and I would ask that this be part of the recorded. With the weather being the way it is, I am not sure that I will be able to attend your committee meeting tomorrow.

Thank you for your time and the time of your committee members.

Sincerely

Ron Cousino, Board of Education Member, USD233

*Senate F.D.S.D
Attachment 10
1/28/97*