

Approved: March 6, 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 February 17, 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
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee: John LaFaver, Secretary, Department of Revenue
Sue Ann Schultz, Bank IV
Bud Grant, KCCI
Kathy Taylor, Kansas Bankers Association

Others attending: See attached list

Continued Hearing on SB 86 - Deposits of public moneys

John LaFaver, Secretary of Revenue, appeared at the Committee at the request of Chairman Steffes to review the equality of the taxing system for Kansas chartered banks and out-of-state chartered banks. The privilege tax is figured from a formula based on a fraction of income, payroll, and deposits whether the banks is Kansas chartered or not. (Attachment 1)

Committee members were concerned with the 25% drop in privilege tax from last year. The question of whether banks were separating securities from other income and paying less privilege tax was discussed. Secretary LaFaver was not aware of any banks being involved in such activities.

Sue Ann Schultz, general counsel for Bank IV, informed the Committee that it was legal for banks to create subsidiary corporations to handle income investments and offset losses against it. Consolidated basis income will flow up. She discussed the bill passed last year which dealt with mergers and offsetting income. Mergers now do not create privilege tax evasion.

Bruce Kinzie, Revisor of Statutes, reported on the Subcommittees's meetings and handed out copies of a proposed copy of SB 86 with amendments., both technical and substantive. This version of the bill would allow any public entity to deposit in any full service bank in Kansas. (Attachment 2)

Senator Feleciano moved that the distributed bill with the proposed amendments and changes replace the original bill and now be called **Sub SB 86**. The motion was seconded by Senator Praeger. Motion carried.

The hearing on Sub SB 86 was closed.

Hearing on SB 27 - Finance charges on consumer credit sales

Bud Grant of the KCCI reported that this bill would level the credit environment between Kansas and those states which have deregulated the interest rates charged in open or closed-end credit sales made by a retailer (Attachment 3). Currently the money Kansans pay for using credit cards is sent to deregulated states. This would allow credit card operations to be main-officed in Kansas, thus bringing in many jobs and increasing economic development. Should interest rates ever raise to the point they were in the 80's, Kansas creditors would be unable to operate with the current ceilings. Kansas ranks 47th among the states in which to locate credit card companies. We have recently lost companies to other states who treat the credit industry more favorably. The marketplace sets the credit rates, not the merchant.

Committee members expressed concern that the businesses will set the rate and the consumer will have to pay the set rate if he wishes to have the merchandise.

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on February 17, 1997.

There were no opponents and the hearing was closed.

Hearing on SB 32 - Filing financing statements of security

Bud Grant of the KCCI appeared in support of the bill which would raise the current \$1000 threshold (set in 1989) for filing a UCC-1 form with the County Register of Deeds for merchandise purchased through a credit plan to \$3,000 (Attachment 4). Only two other states, Maine and Virginia, still impose similar regulations. The cost of filing the forms is usually paid by the consumer. The \$1,000 is no longer viable in today's economy as prices for much consumer goods bought on credit far exceeds that limit. This legislation would be beneficial to customers, creditors, and the state. KCCI would be supportive of removing the cap completely as 28 states have done. This bill would affect only bankruptcies. There would be a reduction in fee income for the County Register of Deeds.

Kathy Taylor, Kansas Bankers Association, informed the Committee that the UCC filing perfects the security if it is purchased one year before filing for bankruptcy.

Senator Corbin moved to pass the bill out favorably. Senator Clark issued a substitute motion to remove the cap all together. The motion was seconded by Senator Barone.

By total removal of the cap, merchants would take their chances on bankruptcies. It would eliminate the protective value of filing under the UCC. Montgomery Ward was a leader in having the cap set during the 80's when interest rates were very high.

The Committee elected to wait on a vote until they received information from the County Register of Deeds Association regarding how such legislation would impact their receipts.

The hearing was closed on SB 32.

SB 238 - Market rates for state money

Bruce Kinzie, Revisor of Statutes presented a revised copy of the bill which implements policy only.

The meeting was adjourned at 9:58 a.m. The next meeting is scheduled for February 18, 1997.

SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: 2/17/97

NAME	REPRESENTING
Dino Graat	KCCI
Robert Franke	BK IV
John LaFaver	KDOR
Chuck Stores	KBA
Kathy Taylor	KBA
Jim Wang	KBA
Alan Stepp	PETE MCGILL & Associates
Paul Schmeltzer	KCCA
Betsy Swanwick	League of KS Municipalities
Kelly Kuitala	City of Overland Park
Ron Smith	Ks Bar Assoc
Jean Barber	KAFS
John Peterson	Bank IV
Sue Ann, Garrett + Corey Schally	BANK IV
Harold Dixon	State Treasury
Ed Miller	" "
Callie Hill Penrow	Bottenberg's Associates
Kroza Newman	State Farm

Office of the Secretary
Kansas Department of Revenue
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Topeka, KS 66612-1588

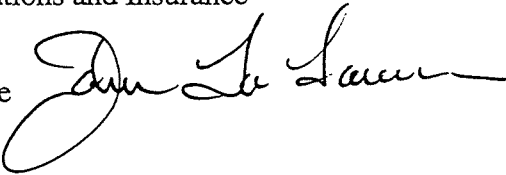


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Office of the Secretary

MEMORANDUM

TO: The Honorable Don Steffes, Chair
Committee on Financial Institutions and Insurance

FROM: John D. LaFaver, Secretary
Kansas Department of Revenue 

DATE: February 14, 1997

SUBJECT: Senate Bill 86

Senator Steffes, and members of the Committee on Financial Institutions and Insurance, thank you for this opportunity to present information on Senate Bill 86 as Introduced.

This bill would amend various statutes governing the deposit of public funds in banks and other financial institutions. This bill would have no direct impact on the Department's administration and enforcement of the privilege tax.

It has been asked whether the banks and financial institutions eligible to receive deposits of public funds under the amendatory provisions of this bill would be subject to the privilege tax. The simple answer to this question is "yes".

The only banks and financial institutions eligible to receive deposits of public funds under the provisions of this bill are those that are incorporated in Kansas or have their main office in Kansas. These banks and financial institutions would therefore have Kansas property, payroll and receipts.

For privilege tax purposes, the net income of banks and financial institutions with business activity both within and without Kansas is subject to apportionment under K.S.A. 1996 Supp. 79-1129.

Therefore, these entities would be subject to a tax measured by an apportioned share of their net income. The amount of tax imposed would depend upon the taxpayer's total net income and its Kansas apportionment percentage, which is the ratio of its Kansas property, payroll and receipts to its total property, payroll and receipts.

Senate F.D.S.
Attachment 1
2-17-97

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. 1996 Supp. 9-1402, 9-1405, 12-1675, 12-1677a, 12-1677b, 75-
12 4201 ~~and 75-4218~~ and repealing the existing sections.

9-701,

75-4217, 75-4218 and 75-4220

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

New Section 1. (See attached)

Sec. 2. (See attached)

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

Sec. 3

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.

main or branch

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,

Senate Filed
Attachment 2
2/17/97

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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
 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 misapprop-
 14 riation of such funds by such officer.

main or branch

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. 1996 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
 27 municipal or quasi-municipal corporation shall obtain security for such
 28 deposit in one of the following manners prescribed by this section.

4.

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,

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 it 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

affiliate

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- 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 administra-
- 20 tion or the veterans administration standards; or are valued pursuant to
- 21 rules and regulations which shall be adopted by both the state bank com-
- 22 missioner and the savings and loan commissioner after having first being
- 23 submitted to and approved by both the state banking board under K.S.A.
- 24 9-1713, and amendments thereto, and the savings and loan board. Such
- 25 rules and regulations shall be published in only one place in the Kansas
- 26 administrative regulations as directed by the state rules and regulations
- 27 board;
- 28 (ii) have been in existence with the same borrower for at least two
- 29 years and with no history of any installment being unpaid for 30 days or
- 30 more; and
- 31 (iii) are valued at not to exceed 50% of the lesser of the following
- 32 three values: Outstanding mortgage balance; current appraised value of
- 33 the real estate; or discounted present value based upon current federal
- 34 national mortgage association or government national mortgage associa-
- 35 tion interest rates quoted for conventional, federal housing administration
- 36 or veterans administration mortgage loans.
- 37 (B) Securities under (A) shall be taken at their value for not more
- 38 than 50% of the security required under the provisions of this section.
- 39 (C) Securities under (A) shall be withdrawn immediately from the
- 40 collateral pool if any installment is unpaid for 30 days or more.
- 41 (D) A status report on all such loans shall be provided to the investing
- 42 governmental entity by the financial institution on a quarterly basis.
- 43 (e) No state or national such bank, state or federally chartered savings

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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) (f) 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 1/2 in an amount thereof.

5.

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,

6.

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 entitle-~~
4 ~~ments 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 those 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 entitle-~~
37 ~~ments 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.

granting a security interest

granting a security interest

executed by all parties thereto, maintained as part of their official records, and, except for the municipal corporations or quasi-municipal corporation, approved by their boards of directors or their loan committees, which approvals shall be reflected in the minutes of the boards or committees.

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. 7.

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. 8.

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 New Sec. 9

20 follows: 12-1675. (a) The governing body of any county, city, township, 10.
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~~ main or branch
43 bank, savings and loan association or savings bank ~~organized under the~~ main or branch

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1 ~~laws of the United States and having its main office in this state~~ is located
 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~~ main or branch
 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;

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 fed-
 12 erally 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~~ main or branch
 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-~~ main or branch
 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-
 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 (h) (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~~ main or branch
 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 (4) (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;~~

having a main or branch

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;

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~~

main or branch

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~~ main or branch
 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.

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 ~~(4)~~ (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 ~~(4)~~ (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 (H) (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: 11.
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 certif-
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 12.
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~~

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.~~

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.

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. ~~17-5002~~ [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.

14.

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~~

, as defined in section 9,

or branch

or another state

or branch

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.

, as defined in section 9,

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.

this state, or organized under the laws of the United States or another
state and which has a main or branch office in this state.

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.

this section and

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:

securities, security entitlements, financial assets and securities
accounts consisting of

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

and security entitlements thereto,

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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. (14)

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.

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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.

organized under the laws of the United State or another state,

a main or branch office in the county in which a state agency making collection of any fees, tuition or charges is located.

incorporated under the laws of this state, or organized under the laws of the United States or another state,

a main or branch office in the county in which a state agency making collection of any fees, tuition or charges is located.

holding on deposit

which is

17. 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,

(s) "Main office" means the place of business specified in the articles of association, certificate of authority or similar document, where the business of the institution is carried on and which is not a branch;

(t) "Branch office" means any office, agency or other place of business within this state, other than the main office, at which deposits are received, checks paid or money lent with approval of the appropriate regulatory authorities. Branch does not include an automated teller machine, remote service unit or similar device;

(u) "securities," "security entitlements," "financial assets," "securities account," "security agreement," "security interest," "perfection" and "control" shall have the meanings given such terms under the Kansas uniform commercial code.

Sec. 16. (See attached)

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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.

2-20

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.

Insert
 Sec. 18

19. 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.

9-701,

20. 11 ~~Sec. 15~~ This act shall take effect and be in force from and after its
 12 publication in the statute book.

, 75-4217, 75-4218 and 75-4220

New Section 1. As used in article 14 of chapter 9 of the Kansas Statutes Annotated:

(a) "Bank" means any bank incorporated under the laws of this state, or organized under the laws of the United States or another state and which has a main or branch office in this state;

(b) "savings and loan association" means any savings and loan association incorporated under the laws of this state, or organized under the laws of the United States or another state and which has a main or branch office in this state;

(c) "savings bank" means any savings bank organized under the laws of the United States or another state and which has a main office in this state;

(d) "centralized securities depository" means a clearing agency registered with the securities and exchange commission which provides safekeeping and book-entry settlement services to its participants;

(e) "municipal corporation" or "quasi-municipal corporation" includes each investing governmental unit under K.S.A. 12-1675, and amendments thereto;

(f) "main office" means the place of business specified in the articles of association, certificate of authority or similar document, where the business of the institution is carried on and which is not a branch;

(g) "branch" means any office, agency or other place of business within this state, other than the main office, at which deposits are received, checks paid or money lent with approval of the appropriate regulatory authorities. Branch does not include an automated teller machine, remote service unit or similar device;

(h) "securities," "security entitlements," "financial assets," "securities account," "security agreement," "security interest," "perfection" and "control" shall have the meanings given such terms under the Kansas uniform commercial code.

Sec. 2. K.S.A. 1996 Supp. 9-701 is hereby amended to read as

follows: 9-701. Unless otherwise clearly indicated by the context, the following words when used in this act, for the purposes of this act, shall have the meanings respectively ascribed to them in this section:

(a) "Bank" means a state bank incorporated under the laws of Kansas.

(b) "Trust company" means a trust company incorporated under the laws of Kansas and which does not accept deposits.

(c) "Board" means the Kansas state banking board.

(d) "Commissioner" means the Kansas state bank commissioner.

(e) "Executive officer" means the chairperson of the board, the president, each vice president, the cashier, the secretary and the treasurer of a bank, unless such officer is excluded by resolution of the board of directors or by the bylaws of the bank or bank holding company from participation, other than in the capacity of a director, in major policymaking functions of the bank or bank holding company, and the officer does not actually participate in major policymaking functions of the bank or bank holding company.

(f) "Insured bank" means a state bank whose deposits are insured through the federal deposit insurance corporation or other governmental agency or by an insurer approved by the state commissioner of insurance for such purpose.

(g) "Item" means any check, note, order, or other instrument or memorandum providing for the payment of money, or upon which money may be collected.

(h) "Demand deposits" includes every deposit which is not a "time deposit," "savings deposit" or "negotiable order of withdrawal deposit" as defined in this section.

(i) "Time deposits" means "time certificates of deposit" and "time deposits, open account" as defined in this section.

(j) "Time certificate of deposit" means a deposit evidenced by a negotiable or nonnegotiable instrument which provides on its face that the amount of such deposit is payable, upon presentation and surrender of the instrument, to bearer or to any

specified person or to such person's order:

(1) On a certain date, specified in the instrument, not less than seven days after the date of the deposit; or

(2) at the expiration of a certain specified time not less than seven days after the date of the instrument; or

(3) upon notice in writing which is actually required to be given not less than seven days before the date of repayment.

(k) "Time deposit, open account" means a deposit, other than a "time certificate of deposit," with respect to which there is in force a written contract with the depositor that neither the whole nor any part of such deposit may be withdrawn, by check or otherwise, prior to the date of maturity, which shall be not less than seven days after the date of the deposit, or prior to the expiration of the period of notice which must be given by the depositor in writing not less than seven days in advance of withdrawal.

(l) "Savings deposit" means a deposit: (1) Which consists of funds deposited to the credit of or in which the entire beneficial interest is held by one or more individuals, or of a corporation, association or other organization operated primarily for religious, philanthropic, charitable, educational, fraternal or other similar purposes and not operated for profit; or that consists of funds deposited to the credit of or in which the entire beneficial interest is held by the United States, any state of the United States or any county, municipality or political subdivision thereof, or that consists of funds deposited to the credit of, or in which any beneficial interest is held by a corporation, partnership, association or other organization not qualifying above; and (2) with respect to which the depositor is not required by the deposit contract but may at any time be required by the bank to give notice in writing of an intended withdrawal not less than seven days before such withdrawal is made and which is not payable on a specified date or at the expiration of a specified time after the date of deposit.

(m) "Public moneys" means all moneys coming into the custody of the United States government or any board, commission or agency thereof, and also shall mean all moneys coming into the custody of any officer of any municipal or quasi-municipal or public corporation, ~~the~~ any state or any political subdivision thereof, pursuant to any provision of law authorizing any such official to collect or receive the same.

(n) "Municipal corporation" means any city incorporated under the laws of ~~Kansas~~ any state.

(o) "Quasi-municipal corporation" means any county, township, school district, drainage district, or any other governmental subdivision in ~~the~~ any state ~~of--Kansas~~ having authority to receive or hold moneys or funds.

(p) "Certificate of authority" means a statement signed and sealed by the commissioner evidencing the authority of a bank or trust company to transact a general business as such.

(q) "Transaction account" means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar device for the purpose of making payments or transfers to third persons or others.

(r) "Nonpersonal time deposit" means a time deposit, including a savings deposit that is not a transaction account, representing funds in which any beneficial interest is held by a depositor which is not a natural person.

(s) "Negotiable order of withdrawal deposit" means a deposit on which interest is paid and which is subject to withdrawal by the owner by negotiable or transferable instruments for the purpose of making transfers to third parties, and which consists solely of funds in which the entire beneficial interest is held by one or more individuals, an organization which is operated primarily for religious, philanthropic, charitable, educational, fraternal or other similar purposes and which is not operated for profit, and with respect to deposits of public funds by an

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~~2-23~~

officer, employee or agent of the United States, any state, county, municipality or political subdivision thereof, the District of Columbia, the commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States or any political subdivision thereof.

(t) "Trust business" means engaging in, or holding out to the public as willing to engage in, the business of acting as a fiduciary for hire, except that no accountant, attorney, credit union, insurance broker, insurance company, investment adviser, real estate broker or sales agent, savings and loan association, savings bank, securities broker or dealer, real estate title insurance company or real estate escrow company shall be deemed to be engaged in a trust company business with respect to fiduciary services customarily performed by them for compensation as a traditional incident to their regular business activities.

(u) "Community development corporation" (CDC) means a corporate entity established by one or more financial institutions or by financial institutions and other investors or members, and operating for the primary purpose of housing development, economic growth and revitalization, small and minority business creation, and other community development initiatives.

(v) "Community development project" (CD project) means a specific project in a particular location, such as a neighborhood, city, county or state, the primary purpose of which is the economic improvement of that area or the provision of housing for low-income and moderate-income persons in that area and any state tax credit equity fund established pursuant to K.S.A. 74-8904, and amendments thereto.

(w) "Depository institution" means any state bank, national banking association, state savings and loan or federal savings association, without regard to the state where the institution is chartered or the state in which the institution's main office is located.

(x) "Student bank" means any nonprofit program offered by a

high school accredited by the state board of education, where deposits are received, checks are paid or money is lent for limited in-school purposes.

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~~2.25~~

New Sec. 9. As used in K.S.A. 12-1675, 12-1676 and 12-1677 and K.S.A. 1996 Supp. 12-1677a and 12-1677b, and amendments thereto:

(a) "Bank" means any bank incorporated under the laws of this state, or organized under the laws of the United States or another state and which has a main or branch office in this state;

(b) "savings and loan association" means any savings and loan association incorporated under the laws of this state, or organized under the laws of the United States or another state and which has a main or branch office in this state;

(c) "savings bank" means any savings bank organized under the laws of the United States or another state and which has a main office in this state;

(d) "municipality" includes each investing governmental unit under K.S.A. 12-1675, and amendments thereto;

(e) "main office" means the place of business specified in the articles of association, certificate of authority or similar document, where the business of the institution is carried on and which is not a branch; and

(f) "branch" means any office, agency or other place of business within this state, other than the main office, at which deposits are received, checks paid or money lent with approval of the appropriate regulatory authorities. Branch does not include an automated teller machine, remote service unit or similar device.

Sec. 16. K.S.A. 1996 Supp. 75-4217 is hereby amended to read as follows: 75-4217. Awards of all state bank accounts aggregating ~~more than \$100,000~~ shall be made pursuant to a written security agreement between the depository bank and the board ~~granting the state of Kansas a security interest in securities pledged to secure payment of deposits in state bank accounts~~. This agreement shall be approved by the board of directors of the depository bank ~~as~~ and reflected in the minutes of the board of directors. From the time of execution, the security agreement shall remain continuously an official record of the depository bank. Separate security agreements shall be entered into for each class of account in each depository bank.

INSERT FOR SECTION 17

shall deposit, maintain, pledge, assign, and grant a security interest in, or cause its agent, trustee, wholly-owned subsidiary, or affiliate having identical ownership to deposit, maintain, pledge, assign, and grant a security interest in, for the benefit of the state of Kansas, in the manner provided in this act, securities owned by the depository bank directly or indirectly through its agent or trustee holding securities on its behalf, or owned by the depository bank's wholly-owned subsidiary or by such affiliate, the market value of which is equal to 100% of the amount of the account plus accrued interest, less that portion of the amount of the account plus accrued interest which is insured by the federal deposit insurance corporation or its successor.

(b) All securities securing state bank accounts shall be deposited in a securities account with a bank having the prior approval of the board, the federal home loan bank of Topeka or with the state treasurer pursuant to a written custodial agreement, and a receipt taken therefor with one copy going to the treasurer and one copy going to the bank, savings bank or savings and loan association which has secured such state bank account. The receipt shall identify the securities which are subject to a security interest to secure payment of the state bank account. This section shall not prohibit any custodial bank receiving securities on deposit from issuing a receipt and depositing securities identified in the receipt in such bank's account with any bank chartered in Kansas or any other state, any trust company chartered in Kansas or any other state, any national bank, or any centralized securities depository wherever located within the United States. No securities securing state bank accounts shall be deposited in any bank, trust company or national bank which is owned directly or indirectly by any parent corporation of the depository bank, or with any bank, trust company, or national bank having common controlling shareholders, having a common majority of the board of directors or having

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2-28

common directors with the ability to control or influence directly or indirectly the acts or policies of the bank, savings and loan association or savings bank securing such state bank account. Any custodial bank which releases securities securing a state bank account without being authorized to do so under the custodial agreement shall be liable to the state for any loss to the state resulting therefrom.

(c) Securities securing state bank accounts may be deposited with the federal reserve bank of Kansas City to be there held in such manner, under regulations and operating letters of the federal reserve bank, as to secure payment of the state bank account in the depository bank.

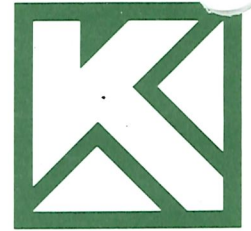
(d) The depository bank, and any agent, trustee, wholly-owned subsidiary or affiliate having identical ownership granting a security interest shall enter into a written agreement with the state of Kansas granting the state of Kansas a security interest in the securities to secure payment of the state bank account. Such security interest shall be perfected by the depository bank and any agent, trustee, wholly-owned subsidiary or affiliate having identical ownership granting a security interest causing control of the securities under the Kansas uniform commercial code to be given to the state of Kansas. The security agreement and the custodial agreement shall be in writing, executed by all parties thereto, maintained as part of their official records, and, except for the state of Kansas, approved by their boards of directors or their loan committees, which approvals shall be reflected in the minutes of the boards or committees.

Sec. 18. K.S.A. 1996 Supp. 75-4220 is hereby amended to read as follows: 75-4220. (a) Each depository ~~or its affiliate bank pledging securities for such depository~~ bank and its agent, trustee, wholly-owned subsidiary or affiliate having identical ownership granting a security interest pursuant to K.S.A. 75-4218, and amendments thereto, shall be liable for payment if: (1) The depository bank fails to: (A) Pay any check, draft or warrant drawn by the treasurer and director of accounts and reports; or (B) account for any check, draft, warrant, order, or certificate of deposit, or any money entrusted to such bank by the treasurer; or (2) a conservator or receiver is appointed for the depository bank.

Any loss incurred by the state by reason of failure by any depository bank to safely keep and account for moneys and interest thereon shall be recovered by the state from the depository bank and a sale of the securities pledged securing payment of such moneys under this act. The attorney general is authorized to prosecute in the name of the state any and all actions for recovery of any loss incurred by the state under this act.

In case of default by any depository bank having a state bank account of any type, the securities pledged securing payment of such account under this act, if not in the possession of the treasurer, shall be transferred to the treasurer by the custodial bank to be sold by the treasurer and payment of the proceeds of such sale shall be made to the state to the extent of the state's interest, subject to the provisions of K.S.A. 75-4221, and amendments thereto.

**LEGISLATIVE
TESTIMONY**
Kansas Chamber of Commerce and Industry



835 SW Topeka Blvd. Topeka, Kansas 66612-1671 (913) 357-6321 FAX (913) 357-4732

SB 27

February 17, 1997

KANSAS CHAMBER OF COMMERCE AND INDUSTRY
Testimony Before the
Senate Committee on Financial Institutions and Insurance
by
Bud Grant
Vice President and General Manager

Mr. Chairman and members of the Committee:

My name is Bud Grant and I am here today on behalf of the Kansas Retail Council, a division of the Kansas Chamber of Commerce and Industry.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 46% of KCCI's members having less than 25 employees, and 77% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

One of the most familiar terms heard in the Statehouse is "level the playing field." That's the issue before you today in the form of SB 27. Should it become law, it would "level" the credit playing field for all retailers. In addition, it would help to "level" the credit environment between Kansas and those states with which it competes for credit industry jobs.

*Senate F.D.S.
Attachment 3
2/17/97*

Why is the playing field not level for Kansas retailers today? Current law provides that when an open or closed-end credit sale is made by a retailer, retailers may apply an interest rate of 21% on a balance of \$1,000 or less, and 14.4% on the portion that exceeds \$1,000. This rate has been in effect for several years and applied to all retailers offering credit in Kansas. This is no longer the case.

In 1979, the U.S. Supreme Court, in the *Marquette National Bank vs. First of Omaha Service Corporation* case, ruled that the National Bank Act permits a bank to export into all the states in which it does business, the rates applicable in the state in which the bank is located. As a result, national retailers have established their credit banks in deregulated states and are exporting the rates charged in those states into states such as Kansas which retain their own usury statutes. No longer are retailers governed by the same credit rules. The enactment of SB 27 would once again have all retailers playing out of the same deck of cards.

What can we anticipate would happen to rates if the current law is changed? A 1995 survey in the state of Washington provides evidence of how competitive markets work. With retail credit card ceilings removed in 1992, a 1995 survey documented that 73.5 percent of those retailers reporting had not changed their rate. Similar evidence (although a much smaller sample) was found in Connecticut a year following rate removal where none of the four major retail firms surveyed had changed their rates.

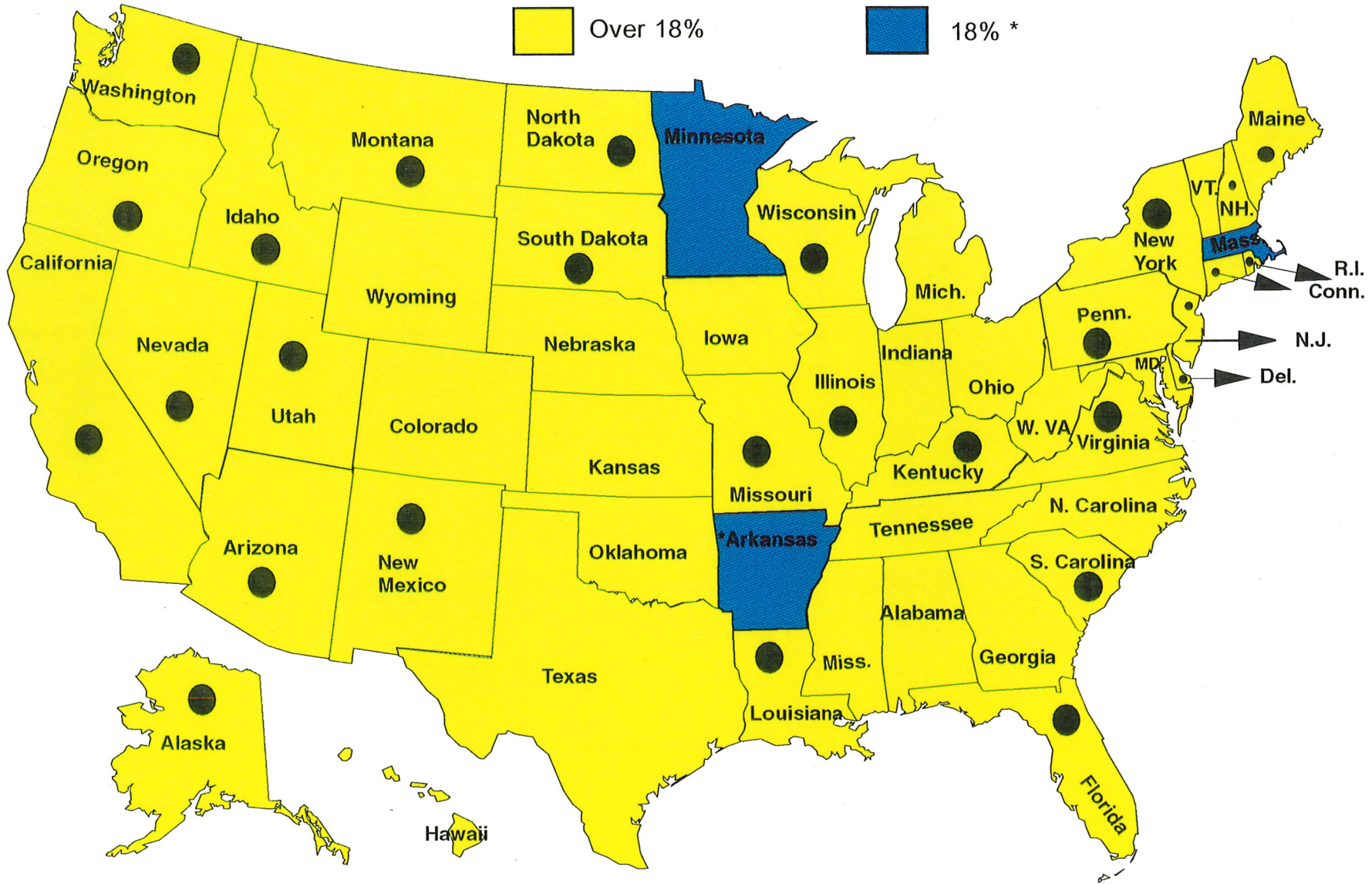
The current two-tiered system should be removed to ensure that Kansas retailers are not placed at a competitive disadvantage to out-of-state companies. Should the economic times of the early 80's return, along with their double-digit prime rate, Kansas retailers would be unable to respond. That would not be the case with the national firms with the ability to export rates into the state.

What about the credit environment in Kansas and does it affect job creation? A McGraw-Hill study, completed in 1993 and released in 1994, named the ten most favorable and ten least

favorable states in which to locate credit card operations. Sadly, Kansas made the 10 least favorable list by ranking 47th of the 50 states. One of the factors included in the measurement was the fact that we continue to retain rate caps. Rather than have the kind of environment that encourages Kansas spending to stay in Kansas, our environment encourages that money be sent to deregulated states. There are currently more than 1,600 jobs directly tied to the retail credit industry in Kansas today, many of which are in Johnson County. If a major retailer should decide to consolidate or expand its credit operations, it will probably not be in the state which ranks 47th out of 50 states. This is particularly critical for Johnson County, when there exists next door an unregulated retail credit environment. We experienced some of the negative impact two years ago when a major credit provider with substantial operations in Kansas, chose to expand in Nevada rather than Kansas. The expansion involved 600 jobs which we did not get.

Since this issue was first considered one year ago, four states, including our neighboring state Missouri, have deregulated, bringing the total to 28. I think it is safe to assume that at least that many will do so again this year. I hope that Kansas will join this majority of states and level the playing field. I urge you to recommend SB 27 to the full Senate for favorable passage.

● OPEN COMPETITIVE RETAIL CREDIT MARKET



3-4

* Has variable rate below 18%

**A National Comparison Of Retail Credit Card Rate
Open Competitive Market States**

Alaska	Illinois	New Hampshire	Rhode Island
Arizona	Kentucky	New Jersey	South Carolina
Connecticut	Louisiana	New Mexico	South Dakota
Delaware	Maine	New York	Utah
Florida	Missouri	North Dakota	Virginia
Idaho	Montana	Oregon	Washington
	Nevada	Pennsylvania	Wisconsin

25% Limit

Michigan Ohio

24% Limit

Hawaii Maryland District of Columbia

21% Limit

Colorado	Indiana	Oklahoma	Texas	West Virginia
Georgia	Mississippi	Tennessee	Vermont	Wyoming

**21% on First \$800 of Balance
(18% Over)**
North Carolina

**21% on First \$750 of Balance
(18% Over)**
Alabama

**21% on First \$1,000 of Balance
(14.4% Over)**
Kansas

**21% on First \$500 of Balance
(18% Over)**
Nebraska

19.8% Limit

Iowa

18% Limit

Minnesota Massachusetts

17% or Below

Arkansas

3-5

RETAILER	APR	EXPORTED	
		yes	no
Best Buy	Prime + 14 = 23.15%	x	
Circuit City	20.5 %	x	
Color Tile	21.8 %	x	
Comp USA	Prime + 13.9 = 22.65%	x	
Firestone	21.8 %	x	
Goodyear	21.9 %	x	
Jones Store Co.	21 %		x
Limited	22.8%	x	
Lerners	22.8%	x	
Lane Bryant	22.8%	x	
Macy's	21.6%	x	
Montgomery Ward	22.6%	x	
National Tire	21.6%	x	
Office Depot	Prime + 12.3 = 21.05%	x	
Office Max	21.6	x	
*JC Penney	21 %	x	
Rhodes Furniture	Prime + 13.4 = 22.15%	x	
*Sears Roebuck & Co.	21 %		x
Western Auto	21.9%	x	
Zales	21.6%	x	

*Note - these companies are either owned or serviced by companies who have a credit card bank and could export fees into Kansas, but are not currently doing so.

Release Date



FOR IMMEDIATE RELEASE

Contact

CONTACT: Charlotte Rush
MasterCard International
(202) 789-5960

Aili Jokela
Fleishman-Hillard
(202) 828-8807

**Ten "Most Favorable" and Ten "Least Favorable"
Credit Card States Ranked by DRI/McGraw-Hill in Study
Underwritten by MasterCard International**

News Release

April 7, 1994, Washington, D.C. -- In a comprehensive evaluation of the employment and regulatory environment of the credit card industry in the 50 states, DRI/McGraw-Hill has named the "Top Ten Most Favorable" and the "Ten Least Favorable" states in which to locate credit card operations in the U.S. Underwritten by MasterCard International, the report, entitled "A Study on the Attractiveness of States to Credit Card Issuing Firms," is based on an "Attractiveness Index" that measures the credit card friendliness of states according to regulations, legal environment, cost of doing business and quality of life. The study is a one-year update of a survey completed in 1993.

"Card issuers are competing as never before to provide consumers with the broadest possible range of pricing options and benefits," said Charlotte Rush, vice president of Public Affairs for MasterCard International. "To do that, issuers need to locate in deregulated states or those states trending toward a 'free market' orientation. These states are the big winners, attracting the most card industry jobs.

"States with a restrictive regulatory or hostile legal environment place issuers at a real competitive disadvantage in the national marketplace," continued Rush. "Increasingly we see card industry jobs in these states targeted by 'card-friendly,' free market states."

- more -



"The only state with substantial employment at stake among the 'Most Unfavorable' is California, which slipped this year from the 42nd position to the 46th," noted Wyss.

Wyss explained that the major reason for the decline was the California legislature's failure to pass a credit card reform bill in 1993.

"In addition, there have been legislative efforts in three of the last four years to restrict interest rates," he said. "Finally, a hostile legal environment continues to exist; last year a lawsuit, which must be taken seriously, was filed against a non-profit public employee credit union for charging late fees in the \$5.00 range. And California's third largest bank lost a \$14 million judgment in 1993 relating to a credit card late fee lawsuit."

"We hope this annual survey will be a guide for lawmakers, state economic development officers, corporate relocation consultants and card industry decision makers as they assess where to locate and how to grow credit card employment," said Rush. "These jobs are particularly attractive because many do not require college degrees, yet pay higher-than-average-salaries, they are environmentally 'clean' and they lie at the center of the computer and telecommunications industries."

For more information on the study or its findings contact: David Wyss, research director, or Gordon Greenfield, senior associate, DRI/McGraw-Hill, (617) 863-5100.

MasterCard International Incorporated, headquartered in New York City, is a global payments franchise comprised of nearly 22,000 member financial institutions worldwide. Through its family of brands, MasterCard offers a full range of credit and debit products and services supported by a global transaction processing network. In 1993, 210.3 million MasterCard credit cards generated more than \$320.6 billion in transaction volume at 12 million acceptance locations worldwide.

Gaining credit

For many years, Missouri has regulated rates on revolving retail credit. Currently the cap is 20.94 percent, but industry representatives say it's time to let the market determine such rates. They're right.

More than 20 percent may seem high, but even at that level retailers say their credit operations don't make money. Revolving credit is an expensive service to offer — the postage alone is a major cost. So why do stores do this? They have to. Their customers expect it. Stores that refuse will lose business.

The problem is that some companies evade the cap by locating their back-office operations in one of 24 states with rate deregulation. Those rates can be higher than stores operating under state jurisdiction, such as Halls, Famous-Barr in the St. Louis market and Saffees, with

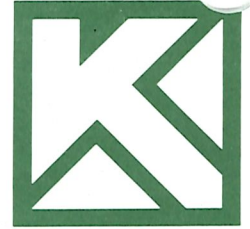
two outlets in the Kansas City area.

But isn't a rate cap good for consumers? No, it is not. Stores with deregulated credit can charge higher rates and recover more of their costs, while those with capped rates may be forced to raise retail prices to make up losses from their revolving-credit units. This puts operators under Missouri's regulated credit at a disadvantage.

If Missouri frees retail credit, the likely result would be several rates. California alone has 26. One important byproduct would be an increase in the state's ability to attract jobs in the revolving-credit industry — an area in which Missouri's "attractiveness" was rated a dismal 44th in one study. Credit regulation is an artifact of the government-knows-best era, and should be scrapped.

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



835 SW Topeka Blvd. Topeka, Kansas 66612-1671 (913) 357-6321 FAX (913) 357-4732

SB 32

February 17, 1997

KANSAS CHAMBER OF COMMERCE AND INDUSTRY
Testimony Before the
Senate Committee on Financial Institutions and Insurance

by
Bud Grant
Vice President and General Manager

Mr. Chairman and members of the Committee:

My name is Bud Grant and I am here on behalf of the Kansas Retail Council, a division of the Kansas Chamber of Commerce and Industry in support of SB 32.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 46% of KCCI's members having less than 25 employees, and 77% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

The Uniform Commercial Code in Kansas currently requires that in order to prevent the bankruptcy trustee from taking possession of unpaid merchandise, creditors must file a UCC-1 form on every item of merchandise where the purchase price exceeds \$1,000. Prior to 1989, when the current \$1,000 threshold was established, a filing was required on each and every credit sale if the creditor was to perfect their purchase money security interest.

*Senate FDs D
Attachment 4
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The change presented in SB 32, which would raise the threshold to \$3,000 is appropriate in today's world. The fact is, only two states, Virginia and Maine, impose similar requirements. Virginia has a \$1,000 threshold and Maine \$3,000. The filing of the UCC-1 form does inconvenience consumers by causing needless delays waiting for the form to be completed and presented for signature. In addition, the cost of filing the original UCC-1 (\$6), amending it if necessary (UCC-3), and terminating the lien by filing a UCC-11 form must ultimately be passed on to the consumer. The merchant must train personnel on how to complete the form, respond to questions, stock the forms, store and retrieve forms that have been filed, which can result in lessening the quality of service they make every effort to provide.

If the merchant chooses not to burden the customer with the inconveniences associated with this form and does not complete it, and the debtor's debt is discharged in bankruptcy, they may not be able to regain possession of the merchandise due to the Trustee's avoidance powers.

The current \$1,000 is now out of touch with today's economic environment. It has not been adjusted for inflation or other changes in the standard of living. A significant number of ordinary household items are subject to seizure by the bankruptcy trustee, e.g., larger screen televisions, camcorders, stereo systems, and refrigerators, if the UCC-1 is not filed.

The proposed amendment would be beneficial to consumers, creditors, and the state. Consumers will not be inconvenienced or incur additional expenses when making purchases of items for household purposes. Creditors will not sustain substantial losses due to bankruptcy trustees taking of unpaid merchandise. The state will not lose revenue because of losses taken by creditors.

At a minimum, Mr. Chairman and members of the Committee, I urge you to adopt the \$3,000 threshold. We would be even more supportive if you choose to eliminate the requirement completely as 47 other states have done.

Thank you Mr. Chairman for the Committee's time and attention.

H-3

SENATE BILL No. 238

By Committee on Federal and State Affairs

2-10

9 AN ACT relating to public moneys; providing for the establishment of
 10 market rates for state moneys; concerning bidding for investment ac-
 11 counts of state moneys by banks; amending K.S.A. 68-2060 and K.S.A.
 12 1996 Supp. 12-1675, 75-4201, 75-4208, 75-4209, 75-4210, 75-4212a
 13 and 75-4263 and repealing the existing sections.

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

15 ~~New Section 1. The director of investments shall accept requests~~ (a)
 16 ~~from banks interested in obtaining investment accounts of state moneys.~~ may

17 Such requests ~~shall~~ be submitted ~~by 9:00 a.m.~~ any business day and shall
 18 specify the dollar amount, maturity or maturity range and interest rate.

19 If the interest rate bid by the bank is at or greater than the market rate
 20 determined by the director of investments in accordance with ~~Section 2,~~ subsection (b)

21 the director of investments is authorized to award the investment account
 22 to the bidding bank at the market rate. Awards of investment accounts
 23 pursuant to this section shall be subject to investment policies of the
 24 pooled money investment board. When multiple bids are received and
 25 are in excess of the amount available for investment that day for any
 26 maturity, awards shall be made available in ascending order from smallest
 27 to largest dollar amount bid, subject to investment policies of the board.

28 ~~New Sec. 2. As used in this act, "market rate" means a rate~~ (b) The market rate shall be
 29 ~~determined each business day by the director of investments, in accordance~~
 30 ~~with any procedures established by the pooled money investment board.~~
 31 Subject to any policies of the board, the market rate shall reflect the
 32 highest rate at which state moneys can be invested on the open market
 33 in investments authorized by subsection (a) of K.S.A. 75-4209 and amend-
 34 ments thereto for equivalent maturities.

35 Sec. 3. K.S.A. 1996 Supp. 12-1675 is hereby amended to read as
 36 follows: 12-1675. (a) The governing body of any county, city, township,
 37 school district, area vocational-technical school, community college, fi-
 38 remen's relief association, community mental health center, community
 39 facility for the mentally retarded or any other governmental entity, unit
 40 or subdivision in the state of Kansas having authority to receive, hold and
 41 expend public moneys or funds may invest any moneys which are not
 42 immediately required for the purposes for which the moneys were col-
 43

Senate FDD
 Attachment 5
 2/17/97