

Approved: March 24, 1998
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 March 10, 1998 in Room 529-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Tom Wilder, Kansas Insurance Department
Charlie Hostetter, First Savings, Manhattan
John Houlihan, Director of Purchases for state
Ted Haggart, Community Bank President, Manhattan
Kathy Olsen, Kansas Bankers Association

Others attending: See attached list

Hearing on HB 2640--Fire lien notification requirements

Tom Wilder, Kansas Insurance Department, informed the Committee that the Department must be notified when a fire lien ordinance is passed and the Department is required to notify over 800 insurance companies (Attachment 1). This requirement takes two employees most of one day to send out the ordinance notice notifications. The Department is requesting to list in its Quarterly newsletter or post on their website those cities and counties that have passed ordinances. It is similar to the Minnesota and Michigan models. Many smaller cities and townships are constricted by the current law because they are required to notify the state within 14 days and part-time clerks find this an unrealistic deadline.

Senator Feleciano moved to amend the bill to include windstorms in the provision and to change the effective date to publication in the Kansas Register. Motion was seconded by Senator Becker. Motion carried.

Senator Feleciano moved to pass the bill out as amended. Motion was seconded by Senator Becker. Motion carried.

Hearing on HB 2904--Contracts by regents institutions for use of debit cards

Charlie Hostetter, First Savings Bank of Manhattan, reported that Kansas State University did not go through the Secretary of Administration's state purchasing agency when it bid for a debit card service for its student union and university (Attachment 2). An outside consultant who had previously worked at Florida State University was hired to work with the card provider. When the bid was not awarded to First Savings Bank, they asked to see copies of the other bids. Kansas State University refused to share this information. Through the Freedom of Information Act, the records were finally released. Mr. Hostetter said they did not believe the bids were analyzed fairly so suit was filed against KSU. This suit was ultimately dismissed because of a 30 day filing time limit. The card provider, however, had been notified more than 30 days prior to that time. First Savings was not notified.

The bill would require that such bids go through the state process versus being bid independently. KSU has been the only school to bid outside the state process. Bid process statutes would be followed as outlined by the Department of Purchasing similar to insurance.

John Houlihan, Director of Purchases for the state, said he felt the KSU situation was an anomaly. Since the KSU Student Union is non-profit, it is not under the state rules. KSU wanted the Union and University to be under the same standard card so they let the Union lead the process. He voiced support of the bill but does not know if it is necessary. He also clarified that the best value bid, not the lowest bid, must be accepted. If the bill is passed, when the KSU contract comes up for renewal, it must be re-bid through the state. No other

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on March 10, 1998.

schools would be affected because the other Regents universities bid through the state originally so their renewal would not have to be re-bid.

Ron Gaches introduced Ted Haggart and commented that Bernard Pitts, KSU Union Director, whom he had spoken with, said they tried to mirror the state bid process.

Ted Haggart, Community Bank President, Commerce Bank, Manhattan, spoke on behalf of the bank who had been awarded the bid (Attachment 3). The Committee commented that the terms of the contract with KSU (seven years with two extension terms) were long considering the upheaval of the banking industry. In response, Haggart said that it was due to the large investment Commerce had put into the program which included a full service branch in the KSU Union.

The card's uses (ATM, library, lunch ticket, official ID, telephone service) were discussed. These "purses" have information stored in them which allowed varying degrees of access according to individual cardholders plans. It was conceded that a motive of the bank in providing a debit card is to enter into a long term relationship with students.

Kathy Olsen, Kansas Bankers Association, said their concern was that the bid process would be cost prohibitive to small banks (Attachment 4).

The hearing was closed with no action taken.

The meeting was adjourned at 10:02 a.m. The next meeting is scheduled for March 12, 1998.

SENATE FINANCIAL INSTITUTIONS & INSURANCE
COMMITTEE GUEST LIST

DATE: 3-10-98

NAME	REPRESENTING
Charles Hostetler	1st Savings Bank of Manhattan
Brad Smart	AIA
Tom Wilde	Kansas Insurance Dept -
Koe Saeber	Dept of Admin
David Metzenthin	D/A Purchases
Duncan Freund	D/A A&R



Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

MEMORANDUM

To: Senate Financial Institutions
and Insurance Committee

From: Tom Wilder

Re: Substitute House Bill 2640 (Fire Liens)

Date: March 10, 1997

I am appearing today in support of legislation which will change the record keeping required of the Kansas Insurance Department for "fire lien" ordinances approved by cities and counties. Current law authorizes cities and counties to pass ordinances or resolutions which allow them to file liens against property damaged by fires, explosions or windstorms. The liens can be filed against up to 15% of the proceeds from property and casualty insurance coverage on the structure. The funds from the policy are used to salvage or remove the building from the property.

The current law also provides that once a city or county passes a fire lien ordinance or resolution they shall send a copy to the Department of Insurance. Our agency must in turn send copies of the ordinance or resolution to every insurance carrier authorized to write fire insurance in Kansas. The Insurance Department must mail out notices to over 800 property and casualty carriers each time a ordinance is sent to us by a city or county. I have attached a copy of an ordinance notice which our department mailed out last December together with a list of the 42 ordinances which were mailed out in 1997. As you can see, the mailing of notices is an expensive and time consuming task for our agency.

The substitute bill allows the Department, once each calendar quarter, to provide property and casualty insurers with a list of those cities and counties which have adopted

*Senate FD+J
3/10/98
Attachment 1*

fire lien ordinances. The language is similar to the notification procedures used in Minnesota and Michigan. The Department plans to either mail the list of cities and counties to the carriers or include the list in our Quarterly Newsletter or on our internet website.

The statute was also amended by the House Committee at the request of the Kansas League of Municipalities to remove the requirement that local units of government have 14 days to notify the Insurance Department after the adoption of a fire lien ordinance. The League indicated that some of the smaller cities and townships, which have part-time clerks, may need more than 14 days to process the ordinance and get the notice out to the Insurance Department.

There is one additional technical amendment which I would ask the Committee to consider. Last year, K.S.A. 40-3901 and 40-3903 were amended to allow cities and counties to include windstorms as one of the causes of loss which could be covered by the ordinances. When this change was made, the new provision should have also been amended into K.S.A. 40-3902, 40-3903 and 40-3094. I have attached a copy of the proposed amendments to my testimony for your consideration.

This legislation will make it easier for the Department to handle the paperwork required by the notice provisions of the statute. I would ask this Committee to approve Substitute for House Bill 2640 with the proposed amendments.



Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

Fire and Casualty Division
Fire Lien Bulletin No. 157

TO: All Insurers Issuing Fire, Explosion or Windstorm Insurance in the State of Kansas

IMPORTANT: FOR DISTRIBUTION TO SUPERVISOR(S) OF KANSAS OPERATIONS

FROM: Kathleen Sebelius
Commissioner of Insurance

SUBJECT: Promulgation of Ordinances by Winfield, Kansas under the Purview of K.S.A. 40-3901, et.seq.

DATE: December 29, 1997

Pursuant to K.S.A. 40-3905, I am enclosing a copy of an ordinance adopted by Winfield, Kansas, which creates a lien on certain insurance proceeds. For the purpose of complying with this ordinance, please refer to K.S.A. 40-3901, et. seq. for necessary procedures and responsibilities that must be implemented by the insurance company. Failure to comply with statutory provisions may result in duplicate claim payments. This revised ordinance includes a change due to a revision in K.S.A. 40-3901 through enactment of House Bill No. 2045 of the 1997 legislative session. This change includes the peril of windstorm in addition to fire and explosion which affects the proceeds of an insurance policy.

You will note that you have 60 days from the date of this Bulletin to establish the necessary procedures and advise adjusters, agents or other persons responsible for your operations in Winfield, Kansas of the steps to be taken to comply with the statutory provision under K.S.A. 40-3901, et. seq.

Please be advised that the Winfield, Kansas ordinance has not been reviewed by the Kansas Insurance Department for compliance with K.S.A. 40-3901, et. seq. It is the responsibility of all insurance companies insuring buildings and other structures against loss by fire, explosion or windstorm in Winfield, Kansas to comply with the provisions in K.S.A. 40-3901, et. seq.

ACKNOWLEDGMENT OF RECEIPT OF THIS NOTICE IS NOT REQUIRED.

Kathleen Sebelius
Commissioner of Insurance

KS:rs
420 SW 9th Street
Topeka, Kansas 66612-1678

785 296-3071
Fax 785 296-2283
Printed on Recycled Paper

Consumer Assistance Hotline
1 800 432-2484 (Toll Free)

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AN ORDINANCE

REPEALING Chapter 12, Article 6 of the Revised Ordinances of the City of Winfield, Cowley County, Kansas, and adopting a new Chapter 12, Article 6 Insurance Proceeds Fund, pursuant to K.S.A. 40-3901 et seq.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WINFIELD, KANSAS:

Section 1. Scope and Application. The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this ordinance.

Section 2. Lien Created. The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.

Section 3. Same: Encumbrances. Prior to final settlement on any claim covered by Section 2, the insurer or insurers shall contact the county treasurer, Cowley County, Kansas, to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the county treasurer, Cowley County, Kansas.

Section 4. Same: Pro Rata Basis. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.

Section 5. Procedure. (a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75 percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the city treasurer in an amount equal to the sum of 15 percent of the covered claim payment unless the city manager of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure. (b) Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms. (c) Upon the transfer of the funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the named insured or insureds, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the city manager shall contact the named insured or insureds by registered mail, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this ordinance.

Section 6. Fund Created: Deposit of Moneys. The city treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this ordinance shall be placed in said fund and deposited in an interest-bearing account.

Section 7. City Manager Investigation: Removal of Structure. (a) Upon receipt of moneys as provided for by this ordinance, the city treasurer shall immediately notify the city manager of said receipt, and transmit all documentation received from the insurance company or companies to the city manager. (b) Within 20 days of the receipt of said moneys, the city manager shall determine, after prior investigation, whether the city shall instigate proceedings under the provisions of K.S.A. 12-1750 et seq., as amended. (c) Prior to the expiration of the 20 days established by subsection (b) of this section, the city manager shall notify the city treasurer whether he or she intends to initiate proceedings under K.S.A. 12-1750 et seq., as amended. (d) If the city manager has determined that proceedings under K.S.A. 12-1750 et seq., as amended shall be initiated, he or she will do so immediately but no later than 30 days after receipt of the moneys by the city treasurer. (e) Upon notification to the city treasurer by the city manager that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the city treasurer shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within 30 days of the receipt of the moneys from the insurance company or companies.

Section 8. Removal of Structure: Excess Moneys. If the city manager has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured.

Section 9. Same: Disposition of Funds. If the city manager, with regard to a building or other structure damaged by fire, explosion, or windstorm, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of Section 5(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the city manager shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under Section 5(a), the city manager shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred.

Section 10. Effect upon Insurance Policies. This ordinance shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the amount otherwise payable under its insurance policy.

Section 11. Insurers: Liability. Insurers complying with this ordinance or attempting in good faith to comply with this ordinance shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this ordinance, or releasing or disclosing any information pursuant to this ordinance.

Section 12. Effective Date. This ordinance shall be in full force and effect from and after its adoption and publication once in the official city newspaper.

Attest: I, the Governing Body of the City of Winfield, Kansas, this 15th day of December, 1997.



Phillip R. Harris, Mayor

Diane Rosecrans, City Clerk

APPROVED AS TO FORM Warren Andreas, City Attorney

APPROVED FOR COMMISSION ACTION: Warren Porter, City Manager

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Fire Lien Bulletin No. 112	Lincoln Center, KS	June 25, 1996
Fire Lien Bulletin No. 113	Lakin, KS	August 23, 1996
Fire Lien Bulletin No. 114	Hiawatha, KS	October 17, 1996
Revision/Correction to Fire Lien Bulletin 114		November 7, 1996
Fire Lien Bulletin No. 115	St. George, KS	December 10, 1996
Fire Lien Bulletin No. 116	Lebo, KS	February 11, 1997
Fire Lien Bulletin NO. 117	Glasco, KS	March 21, 1997
Fire Lien Bulletin No. 118	Robinson, KS	MARch 21, 1997
Fire Lien Bulletin No. 119	Strong City, KS	June ¹⁰ 8 , 1997
Fire Lien Bulletin No. 120	Burlington, KS	June 18, 1997
Fire Lien Bulletin No. 121	Goodland, KS	June 27, 1997
Fire Lien Bulletin No. 122	Wichita, KS	June 30, 1997
Fire Lien Bulletin No. 123	Colby, KS	July 11, 1997
Fire Lien Bulletin No. 124	Salina, KS	July 11, 1997
Fire Lien Bulletin No 125	Paola, KS	July 11, 1997
Fire Lien Bulletin No. 126	Beloit, KS	July 17, 1997
Fire Lien Bulletin No. 127	Holton, KS	July 17, 1997
Fire Lien Bulletin No. 128	Caldwell, KS	July 23, 1997
Fire Lien Bulletin No. 129	Hesston, KS	July 23, 1997
Fire Lien Bulletin No. 130	Hutchinson, KS	July 23, 1997
Fire Lien Bulletin No. 131	LaCygne, KS	July 23, 1997
Fire Lien Bulletin No. 132	LaCrosse, KS	August 1. 1997
Fire Lien Bulletin No. 133	Oakley, KS	August 1, 1997
Fire Lien Bulletin No. 134	Erie, KS	August 1, 1997
Fire Lien Bulletin No. 135	Wakeeney, KS	August 1, 1997
Fire Lien Bulletin No. 136	Leavenworth, KS	August 1, 1997
Fire Lien Bulletin No. 137	Oswego, KS	August 1, 1997
Fire Lien bulletin No. 138	Eudora, KS	August 14, 1997
Fire Lien Bulletin No. 139	Robinson, KS	August 14, 1997

Fire Lien Bulletin No. 140	Bison, KS	August 26, 1997
Fire Lien Bulletin No. 141	Humboldt, KS	August 26, 1997
Fire Lien Bulletin No. 142	Ozawkie, KS	August 26, 1997
Fire Lien Bulletin No. 143	Stafford, KS	September 18, 1997
Fire Lien Bulletin No. 144	Emporia, KS	September 29, 1997
Fire Lien bulletin No. 145	Parker, KS	September 29, 1997
Fire Lien Bulletin No. 146	Atchison, KS	October 10, 1997
Fire Lien Bulletin No. 147	Burlingame, KS	October 24, 1997
Fire Lien Bulletin No. 148	Holyrood, KS	October 24, 1997
Fire Lien Bulletin No. 149	Topeka, KS	November 14, 1997
Fire Lien Bulletin No. 150	Hillsboro, KS	November 14, 1997
Fire Lien Bulletin No. 151	Downs, KS	November 26, 1997
Fire Lien Bulletin No. 152	Towanda, KS	November 26, 1997
Fire Lien Bulletin No. 153	Ulysses, KS	November 26, 1997
Fire Lien Bulletin No. 154	Sedan, KS	December 15, 1997
Fire Lien Bulletin No. 155	Miami County, KS	December 29, 1997
Fire Lien Bulletin No. 156	Osawatomie, KS	December 29, 1997
Fire Lien Bulletin No. 157	Winfield, KS	December 29, 1997

Substitute for HOUSE BILL No. 2640

By Committee on Insurance

2-18

9 AN ACT concerning cities and counties; regarding the filing of fire liens;
10 amending K.S.A. 40-3905 and repealing the existing section.

11

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

13 Section 1. K.S.A. 40-3905 is hereby amended to read as follows:
14 40-3905. Every city or county which adopts an ordinance or resolution
15 under the provisions of K.S.A. 40-3901 to through 40-3904, inclusive, and
16 amendments thereto shall notify the commissioner of insurance within 14
17 days after the adoption of such ordinance. At least once each quarter of
18 each calendar year, the commissioner shall notify prepare and distribute
19 a list of all cities and counties adopting an ordinance or resolution under
20 the provisions of this act during the preceding quarter to all insurance
21 companies which issue policies insuring buildings and other structures
22 against loss by fire, or explosion within 14 days after notification from cities
23 or counties adopting an ordinance or resolution under the provisions of
24 K.S.A. 40-3901 to 40-3904, inclusive. Insurance companies shall have 60
25 days after the commissioner notifies them of the adoption of such ordi-
26 nance or resolution to establish procedures within such cities or counties
27 to carry out the provisions of this act.

or windstorms

28 Sec. 2. K.S.A. 40-3905 is hereby repealed.

29 Sec. 3. This act shall take effect and be in force from and after its
30 publication in the statute book.

or windstorms

40-3902. Same; creating tax lien in proceeds of fire insurance policies. The governing body of any city is hereby authorized to create, by ordinance, a lien in favor of any such city in the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure, caused by or arising out of any fire, ~~or explosion~~. The lien arises upon any unpaid tax, special ad valorem levy, special assessment or other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.

History: L. 1982, ch. 192, § 3; July 1.

or windstorms

40-3904. Same; creating tax lien in proceeds of fire insurance policies. The governing body of any county is hereby authorized to create, by resolution, a lien in favor of any such county in the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure, caused by or arising out of any fire, ~~or explosion~~. The lien arises upon any unpaid tax, special ad valorem levy, special assessment or other charge imposed upon real property by or on behalf of the county which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year

prior to the filing of a proof of loss. This resolution shall not apply to cities which have adopted an ordinance under the provisions of K.S.A. 40-3902.

History: L. 1982, ch. 192, § 5; July 1.

Charlson and Wilson Insurance Agency, Inc.

Telephone 913/537-1600
Fax 913/537-1657
555 Poyntz Avenue, Suite 205, Manhattan, Kansas 66502
P.O. Box 1989, Manhattan, Kansas 66505

March 10, 1998

MEMBERS OF THE KANSAS SENATE FINANCIAL INSTITUTIONS AND
INSURANCE COMMITTEE:

My name is Charles Hostetler. I am an independent insurance agent in Manhattan, a graduate of Kansas State University and the University of Kansas Law School. I am a former member of the Kansas Board of Regents. My family owns the First Savings Bank of Manhattan. We have three locations in Manhattan, and branches in Junction City and Lawrence.

The reason that I am appearing before your committee today in support of House Bill No. 2904 is that I strongly believe that it is in the Kansas taxpayers best interest that all bids for debit cards to be used at Kansas Board of Regents institutions for the payment of fees, tuition and other charges be required by law to proceed through a bidding process under the supervision of the Kansas secretary of administration.

The advantage of requiring that this process be bid through the state of Kansas is to avoid any appearance of a conflict of interest, and to know that the procedure is done correctly and intelligently. First Savings Bank of Manhattan had a most unpleasant and unfair experience attempting to deal with Kansas State University in late 1996 and in 1997 in submitting a bid for the debit card that the university had declared was open to bids.

Quite briefly, the existing statute created a possibility for the university to take bids and negotiate this debit card without going through the Kansas secretary of administration's office. Other Regents institutions had bid their debit cards through the secretary of administration's office, but Kansas State University, for reasons known only to top administrators at the university, decided to bid directly through an ad hoc committee made up of university faculty and staff who had little or no experience with such cards.

The procedure was so flawed and poorly handled that First Savings Bank of Manhattan filed suit over the awarding of this card. It appeared that another financial institution had quite possibly been pre-selected before bids were even submitted. Then end result of this flawed process used by Kansas State University was a greater cost to the taxpayers of Kansas and to KSU students, staff and faculty.



Charles H. Hostetler, C.P.C.U.
Daniel R. Messelt, C.P.C.U.
Jeffrey J. Kruse, A.A.I.

*Senate 904
3/10/98
Attachment 2*



Charlson and Wilson Insurance Agency, Inc.

Telephone 913/537-1600
Fax 913/537-1657
555 Poyntz Avenue, Suite 205, Manhattan, Kansas 66502
P.O. Box 1989, Manhattan, Kansas 66505

The suit was thrown out of court by a district judge in Manhattan on a technicality. First Savings Bank did not appeal his decision. Hard feelings exist and the university has admitted to me, through two of its top administrators, that they handled the procedure improperly and they are, in fact, embarrassed by the manner in which the debit card provider was selected. They are so sensitive about the law suit and the unfavorable publicity in the Manhattan banking community that they turned down a subsequent offer of a \$300,000 gift to the Kansas State University Foundation by the successful bidder.

If House Bill No. 2904 is passed, all Regents institutions would be required to bid debit cards under the supervision of the Kansas secretary of administration. This is what Kansas State University should have been required to have done. Had this procedure been required at the time Kansas State University bid its debit card there would have been no question about the integrity of the bid and the other financial institutions in Manhattan would not have questioned the awarding of this contract.

Kansas State University and other Regents institutions should not be allowed to manipulate an important bid such as this. The taxpayers of Kansas, the students, faculty and staff of KSU deserve better than the manner in which Kansas State University handled this matter.



Charles H. Hostetter, C.P.C.U.
Daniel R. Messelt, C.P.C.U.
Jeffrey J. Kruse, A.A.I.

2-2





Commerce Bank

727 Poyntz Avenue
Post Office Box 1087
Manhattan, Kansas 66505-1087
(785) 537-1234

March 10, 1998

MEMBERS OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

Chairman Steffes and Committee members, thank you for this opportunity to appear before your committee. I am Ted Haggart, Community Bank President of Commerce Bank in Manhattan.

This morning I'd like to provide the committee with a more complete description of the debit card contract process at Kansas State University Student Union. Then, I'd like to discuss five reasons why we believe this bill should not be approved by your committee.

The debit cards we are speaking of today are similar to the debit cards that many of you may have with your hometown banks. They are different in several important ways. First and foremost, they serve as an official photo identification card for KSU students. They also have many important campus functions - library, food services, recreation services, long distance telephone, vending machines, and dorm access. They can also be used for financial transactions on-campus and off-campus. The single card program provides great convenience to students and is more efficient for the university than operating many separate card systems.

The use of this type of debit card on university campuses was pioneered by Florida State University in the late 80's. In the past decade, they have spread to major campuses across the country. In Kansas, four universities currently make use of student debit/ID cards; Fort Hays State, Wichita State, University of Kansas, and Kansas State.

Although I am not representing Kansas State University (KSU), I am familiar with many of the steps leading to our selection as the campus card vendor for the K-State Student Union (KSSU). The process began with the creation of a university committee comprised of faculty and staff members who were charged with determining if a campus card would be desirable at Kansas State University. The committee included representatives from many areas of the University served by or supporting such a card: the library, administration, housing, recreation and information services, to name a few. They were charged with designing the best card program and selecting the best vendor proposal.

*Senate ID + D
3/10/98
Attachment 3*

The university committee made several decisions. First, that a campus card system would be useful if the right services could be obtained on a cost-effective basis. Second, that any new card should replace the Wildcat card currently issued by the K-State Student Union. Third, the card had to pay for itself. The University was not interested in paying anything extra for the debit card service. And finally, the transition to the new debit card should be as smooth as possible.

To achieve these goals, the University chose to contract with the K-State Student Union to select a campus card vendor and to manage the program. The selection of the Union to provide these services was quite natural and not unusual. The Union is a separate not for profit entity, that has provided services to KSU students, faculty and staff since 1956, and has an established track record of contracting with outside vendors and providing the University with a broad variety of services. These services include selling textbooks and school supplies, food service, entertainment, and meeting and communications services. Recently, the KSSU went through a proposal and selection process of a food service management company. For many years, the Union also provided the existing Wildcat card program, which was a limited use debit card designed to encourage students to make use of Union facilities and services.

Due to the technical nature of the newly available multi-purpose debit cards, the Union hired a consultant. The consultant selected was the director of the Florida State University Card Application Technology Center, probably the most knowledgeable and widely respected professional in this field.

The KSU Union issued its Request For Proposals (RFP) for the K-State campus card on April 11, 1996. On June 17, 1996, the Union informed vendors that they had hired the Florida State consultant to evaluate vendor responses to their RFP. On December 18, 1996, we received a letter from the Union advising that our proposal was selected by the committee from this competitive process.

It is my understanding that our proposal was not the low cost bid. However, our proposal included \$75,000 for the Union to cover start-up costs; a marketing budget of \$100,000 in the first year, \$50,000 in year two, and \$25,000 for each following year; and royalties on ATM transactions and merchant sales. In addition, we offered the KSSU an earning credit based on student funds on deposit. Fees charged to the Union for operating the card program are offset by the Union's earnings on the card. In fact, the Union expects to receive positive net income on the program as the card is used more extensively in the years ahead.

Our contract with the Union is for a duration of seven years, with an option for three additional years. The length of this contract is important to both parties, because we are counting on the long-term growth in debit card use to pay back the front-end costs associated with the start up of the program. If our forecast is correct, Commerce Bank expects, in the long run, to earn a return on the considerable investment we are making.

Now, as to the reasons we believe this legislation should not be approved.

First, Kansas State University, the K-State Student Union, and KSU students got a great deal. We made a very aggressive debit card proposal. We want to develop this business in as many of the university towns we serve as possible. By serving multiple university communities, we can create efficiencies that enable us to hold down the costs of these services, increase our contributions back to the universities to cover the costs of their card program, and still make money in the long run. The Commerce Bank proposal includes a significant investment of dollars both upfront to start up the program and over the course of the contract to promote all aspects of the Wildcat Card program, including the debit card function.

Second, the legislation is simply unnecessary because current laws and regulations give state agencies very effective procedures to make all kinds of procurement and contract decisions. In fact, the legislation itself draws on existing procurement laws. We believe it is not in the best interest of the state agencies, or the businesses and citizens of Kansas to complicate our statutes with unnecessary state regulation. It has been my impression that the legislature does not normally micro-manage state government. We do not see any reason to address only one type of procurement and only with the Regents institutions. If there is a perceived problem, then a more detailed look at all contracts affecting all agencies would be more appropriate.

Third, the process followed and the decision reached by K-State and the K-State Student Union was entirely reasonable, especially in light of the history of services provided by the Union. Commerce Bank and two other vendors submitted proposals, the committee selected by the K-State Student Union compared the bids, decided which one was best for their program and their students, and made an objective decision. The committee chose Commerce Bank's proposal.

I certainly cannot speak for KSU or KSSU. However, some knowledge of their past programs and structure helps understand this process. KSSU previously operated a Wildcat Card program which was an on-campus debit account. Students could make a deposit to their Wildcat Card account and then spend these funds within the K-State Student Union and some other campus locations using their Wildcat Card. This was a single function card. The K-State administration, particularly the student services area, and KSSU learned about campus card programs, the convenience to students, and the positive experience of other universities, such as Florida State University. They decided to proceed with a modern multi-function card, which would serve as the official identification card, library card, dorm access card, recreational services card, long distance telephone, and other functions. The K-State administration did not want to allocate administration funds for the campus card program; they wanted it to be self-financing.

The KSSU is an independent, not-for-profit business which serves K-State students. It was natural for the K-State administration to contract with KSSU to design the card program, seek proposals and select the vendors. KSSU has experience at receiving proposals and selecting vendors, or out-sourcing. This process would also be conducive to a smooth transition from the existing Wildcat Account program.

I should add that Mr. Bernard Pitts, Director of the K-State Student Union, reminded us that the Union has been selecting vendors and entering into contract since 1956. This is the first time anyone has suggested the Union should be subject to a purchasing process supervised by the Secretary of Administration.

Fourth, Commerce Bank has participated in three other campus card competitions in Kansas and been selected for all three of them. Each of the universities had a process and a committee that was somewhat different and appropriate to their particular situation. For reasons of their own choosing, these three schools each worked their proposals through the Secretary of Administration's Office. Commerce Bank's was the winning proposal in each case. That includes competition for the University of Kansas contract with the Lawrence bank owned by the Hostetler family.

Fifth, procurement contracts must enable state agencies, and especially universities, to enter into relationships with outside vendors that may be long term in nature. This is necessary to attract quality proposals that include the upfront investment and the long term commitment of qualified service providers. The ability of universities to extend contracts under option and renewal terms when those programs and vendors are working well is very important to the effectiveness and continuity of programs for the universities and their students. It is important in attracting competitive bids from qualified vendors. Attempts could be made to interpret and use this legislation to disrupt contract extension options and intervene during the term of a contract.

In closing, Commerce bankers in four university communities - Hays, Wichita, Lawrence, Manhattan - and our company have made a commitment to Fort Hays State University, Wichita State University, the University of Kansas, and Kansas State University to provide a state-of-the-arts campus card. We have substantial up-front and ongoing investments at each university in this service relationship. These relationships are important to our community bankers and our company

I encourage you to not pass this bill and permit our current contract to go forward.

Thank you, Mr. Chairman. I will respond to any questions.



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

TO: Senate Committee on Financial Institutions and Insurance

FROM: Kathy Taylor Olsen, Kansas Bankers Association

DATE: March 10, 1998

RE: **HB 2904**

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today to discuss the provisions of **HB 2904**. As you have heard, this bill would place under state procedures for bid, contracts for debit cards entered into by any institution under the supervision and control of the State Board of Regents.

It has come to our attention that implementing such a procedure could prove to be quite costly – such that it would be prohibitive to many community banks that might otherwise want to compete for these contracts. We have learned that some of the smaller community banks are very active in processing merchant transactions for state agencies. If in fact, this legislation would impede or prevent community banks or any bank from competing for that business, we would not be in favor of such a measure.

Thank you for your consideration of our concerns.

*Attachment 4
3/10/98
Senate F I & I*