

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 18, 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: Ben Craig, Metcalf State Bank  
Newton Male, State Bank Commissioner  
Barton P. Cohen, Metcalf State Bank  
Chuck Stones, Kansas Bankers Association

**SB 226--Reciprocity with respect to certain insurance requirements**

Chairman Steffes reported that the Committee has received communication from the Insurance Department offering their services during this summer and fall regarding the TIAA-CREF issue (Attachment 1). The Chairman has visited with the interested parties and they are agreeable as is the Committee to accepting this offer. The Department plans to serve as a facilitator, bringing together industry representatives. The Department will study activities in other states and evaluate the impact that any changes would have on the Kansas Guaranty Fund. The Department will report their recommendations to this Committee and to the Legislature at the beginning of the 1999 session. No objections were made to this recommendation.

**Hearing on SB 681--Permitting state banks that meet requirements to expand**

Ben Craig, Metcalf State Bank, explained their need to exceed the 50% limitation on fixed assets to capital ratio as set out in Kansas statutes. It is very necessary for this Johnson County bank to be able to act quickly when regarding future planning and expansion when real estate opportunities come along. They are currently operating with outside the statutes with the approval of the State Bank Commissioner after presenting a plan demonstrating the bank's ability to come into compliance within a short time frame (July 1998). National banks have the authority for fixed assets to be 100% of capital structure and those rated highly for safety and soundness (CAMEL ratings of 1 or 2) are permitted to have fixed assets of 150% of capital structure. Ratings for state banks are subject to change at every examination by state regulators. Metcalf State Bank is requesting parity in the dual banking system in Kansas. Because bank commissioners and even the law granting the commissioner the right to grant approval can be changed, Metcalf State Bank is requesting statutory changes which would allow for such parity. Should this authority not be granted one of the options open to the bank is to change to a national charter which a competing bank in Overland Park has done. This will contribute to the continued shrinking of the state banking system. He also stated their need to update software (\$6 to \$7 million) before the year 2000.

Barton Cohen, Metcalf State Bank, said the Legislature sets the standard for the state and all requests for change must be authorized by the Office of the State Bank Commissioner. The proposed amendment would put state banks in the same position as national banks. At this point, Metcalf Bank would always be out of compliance and be struggling to make the proposed deadlines for compliance.

Commissioner Male suggested three ways to solve the problem: a) legislatively; b) by Special Order; and c) grant commissioner the power to allow excess over 50% limitation of capital. Request for temporary expansion requires at least 30 days to grant which can be detrimental to real estate transactions and affect the growth and planning of a bank in a high growth area. Commissioner Male acknowledged he was uncomfortable in issuing authority for the 150% limitation even though the bank meets the criteria. He stated that the current law dated from the time when only one location was allowed for a bank. The OCC 150 % ruling has been effective since 1996.

It was noted during Committee discussion that Metcalf State Bank was one of the first banks to take advantage of the special order authorizing subsidiaries. They saved \$150,000 in taxes due to this subsidiary. The bank is earning approximately \$1.5 million per year. Their current loan rate is 52% which is less than average in the state. Commercial loans are at 12% and Mr. Craig said they were primarily involved in real estate loans. They have a government bond account of \$60 million. A 100% increase was suggested with a change from

## CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on March 18, 1998.

approval to notification of the proposed development plan. This will still not be parity with national banks.

Chuck Stones, Kansas Bankers Association, said the issue is lead time (Attachment 2). This law would apply mainly to large cities in high growth areas. Property values may grow banks beyond the set ratios. If the Legislature refuses to grant this proposed amendment, the banks only alternative is to become nationally chartered within 30 days. He asked the Committee to address the problem immediately and work the bill so banks can make plans accordingly.

Lack of specific financial information on Metcalf Sate Bank and technical expertise were major concerns of the Committee. The hearing was closed.

The meeting was adjourned at 10:00 a.m. The next meeting is scheduled for March 19, 1998.

# SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: 3-18-98

NAME	REPRESENTING
Ruthy Olsen	ICBA
Chuck Stokes	ICBA
Mike Astle	CBAK
Alan Steppat	Pete McGill & Assoc.
Ruth Fink	
Larry Fink	self
Roger Traudo	Nationsbank
Martin Hawver	Hawver's Capitol Report
Carrie Reecht	Brad Smoot
Judi Stork	OSBC
Sonya Allen	"
W. Newton Males	"
Ben Craig	Metcalf Bank
Bart Cohen	Metcalf Bank
Callie Tell Denton	KATP
Susan Anderson	Hein + Weir
John Petrusa	K's Governmental Consulting



Kathleen Sebelius  
Commissioner of Insurance  
**Kansas Insurance Department**

The Honorable Don Steffes  
Kansas State Senate  
Kansas Capitol  
300 SW 10th Ave. Room 128-S  
Topeka, KS 66612-1504

March 13, 1998

Re: Senate Bill 226 (TIAA-CREF)

Dear Senator Steffes:

As you recall, the Insurance Department supports this legislation which will bring TIAA-CREF under the jurisdiction of the Kansas Insurance Code. The Department believes that any entity which sells insurance products in this state should be licensed and subject to our laws.

The key issue is whether annuities sold by TIAA-CREF should be covered by the Kansas Life and Health Insurance Guaranty Fund. This is a complex question which involves not only TIAA-CREF and its customers, but also the other life insurers which are marketing annuity products in Kansas. Resolving this issue is the key to reaching agreement on Senate Bill 226.

I have informed the proponents and opponents of this bill that the Insurance Department is willing to work over this next year to facilitate discussions on the guaranty fund problem. Hopefully, we can reach some compromise that could be presented to the Legislature next session.

If you have any questions, please feel free to contact my office.

Sincerely,

A handwritten signature in cursive that reads "Tom Wilder".

Thomas J. Wilder  
Director of Government  
and Public Affairs

cc: John Peterson, Brad Smoot, Roger Viola

*Senate FDs D  
Attachment 1  
3/18/98*

# Kansas Bankers Association

800 SW Jackson, Suite 1500

Topeka, KS 66612

785-232-3444 Fax - 785-232-3484 e-mail - kbacs@ink.org

TO: Senate Financial Institutions and Insurance Committee  
FROM: Chuck Stones, Director of Research

RE: SB 681

Mr Chairman and Members of the Committee:

The Kansas Bankers Association appreciates the opportunity to appear before you today regarding SB 681. SB 681 would correct an inequity between nationally chartered banks and state-chartered banks. Under current law state chartered banks cannot own fixed assets greater than 50% of their equity. National banks can own 100% of their capital stock in fixed assets and highly rated banks have the ability, upon notification to the OCC, to increase that level to 150%. SB 681 would maintain the original 50% requirement, but would allow highly rated banks to grow to the 150% level upon notice to the Bank Commissioner.

SB 681 is critical to the expansion needs of banks, especially in urban areas where land and building costs are astronomical. The ability to expand and grow is crucial to the direct competitiveness that banks must maintain. National banks currently have these expanded abilities and state banks must have this ability in order to grow and remain competitive.

We urge your favorable action.

Chuck Stones

*Senate F.I.S.I.  
Attachment 2  
3/18/98*