

Approved: April 8, 1999
Date

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS.

The meeting was called to order by Chairperson Ray Cox at 3:30 p.m. on March 22, 1999 in Room 527-S of the Capitol.

All members were present except:

Representative Helgerson - Excused
Representative Mayans - Excused
Representative Sharp - Excused

Committee staff present:

Dr. Bill Wolff, Legislative Research
Bruce Kinzie, Office of Revisor
Maggie Breen, Committee

Conferees appearing before the committee:

David Brant, Acting Consumer Credit Commissioner
Charles Q. Chandler, Intrust Bank
George Barbee, Ks Association of Financial Services
Chuck Stones, Kansas Bankers Association

Others attending: See Attached List

Chairman Cox opened the informational meeting on **Sub 301 - Consumer Credit: consumer credit code** explaining that the committee doesn't have the bill yet but time is running out and that he has permission to have a special meeting when the bill does come over from the Senate.

David Brant, Acting Consumer Credit Commissioner, recommended that the committee review the supplementary note directed by Dr. Wolff, saying it is very comprehensive and a good summary of the bill. Due to the growth of the licensed lenders and growth in the sub-prime mortgage industry, particularly with the home equity loans being offered by out-of-state lending companies, an advisory group and a drafting committee were appointed to update the code to address a number of these challenges. **Sub 301** is the work product of these groups. The Consumer Credit Code, which was originally adopted in Kansas in 1973, is in need of updating. The areas amended include the enhancement of the regulatory powers of the agency and the administrator, the adding of a number of consumer protections to address the abuses in the sub-prime mortgage loans, and the updating of a number of the usury rate provisions, including lender credit cards and the consumer loan usury rate. He reviewed the more significant consumer protection provisions. **Section 1** addresses a county appraiser's estimate or appraisal for second mortgage loans and certain first mortgage loans. Currently for nonbank mortgage lenders, there is no appraisal requirement. In their examinations, they found a number of mortgage loans that purportedly looked like a 125% loan to value mortgage loans. They checked the county appraisers' estimates and actually the loans were in excess of 170-180% loan to value. Section one now requires that an appraisal is done or they must rely on the county appraisers' estimate. If the loan to value is in excess of 100%, the bill would require the lender to give notice to the home owner of availability of consumer credit counseling. It provided for the borrower to back out of the transaction, after being appraised of that opportunity. **Section 2** is adopted from the state of Michigan. It prohibits false misleading or deceptive advertising in loan solicitations. **Section 3** would prohibit balloon payments or negative amortization on certain first and second mortgage loans which either qualify as a high loan to value loan or qualify as a high rate loan. **Section 7** has a relative minor change on the surface, but the application of the loan previously was only to face to face solicitation. It makes the codes applicable to solicitations received by mail, telephone, or any electronic means. **Sections 12 & 13**, deal with licensing, and now propose to require a \$100,000 surety bond with the lender seeking a license. Also, the administrator's power to deny or revoke a lender's license is strengthened. **Section 15** is a major rewrite of the usury rate provision. Among other things, it would keep an 18% usury cap on second mortgage loans or on any first mortgages made subject to the code. The usury cap that applies to closed end consumer loans would be raised from 18 to 21%. And the usury rate on instate credit cards is proposed to be removed so the instate banks can compete with out-of-state banks. The last page of testimony contains a chart showing a summary of the usury rate changes. The major changes are on instate credit cards, closed in consumer loans and open end

CONTINUATION SHEET

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS, Room 527-S Statehouse, at 3:30 p.m. on March 22, 1999.

consumer loans. Also, in this section are the limits on up-front prepaid finance charges. Previously the mortgage loan limit was 3% for a lenders up-front fees, but that did not include buy-down points. The bill proposed to raise the 3% to 5% but now includes buy-down points or any other fees. This will be easier to enforce and interpret. **Sub 301** places an 8% cap on all prepaid finance charges as well as places a limit on refinancing within 12 months. It's intended to limit the lender to only collect fees on the refinancing for the new money. They can't collect fees on the amount that they've rolled over, if it's within a 12 month period. **Sections 25 and 26** strengthen the criminal and civil sanctions for violation of the Code. **Section 27** enhances the agency's examination authority. And **Section 30** empowers the administrator to censure and impose fines, to issue cease and desist orders should lenders be in violation of codes, and to impose administrative sanctions after an opportunity for a hearing. This covers the consumer protection aspects of the bill. **(Attachment 1)**

Charles Q. Chandler, Intrust Bank, appeared to present his beliefs regarding current UCCC laws. His family has been in the banking business in Kansas for more than 100 years. INTRUST Financial Corporation is the largest independently owned bank holding company in the state of Kansas. They strive to be a leader in innovation, they had the first drive-through bank, the first ATM in Wichita, and the first true internet banking site in Kansas. The proposed changes to the UCCC will have the biggest impact on their credit card portfolio. Kansas has a history as a state that's good for banks and good for consumers and they don't want that to change. Last year, both Kansas State and Kansas University alumni requested proposals for their credit card business. The credit card business has become very competitive nationally. Consolidation has resulted in the top 6 issuers controlling 65% of the market. Each of these national players benefit from more flexible state laws that we have within the state of Kansas. INTRUST bid the alumni business very aggressively, understanding that they would need to use another financial model to compete with these national players. The financial model looked at was Nebraska, which would mean relocating their credit card bank there since it has a friendlier regulatory environment. INTRUST was awarded the contracts but the commitments made came with business costs that cannot be overcome under current Kansas UCCC laws. It seems ironic that a company, that has been doing business in Kansas for 100 years, may have to move a part of our business to Nebraska to remain competitive. INTRUST wants to keep their credit card business in Kansas but needs the committee's help. He urged the passage of the UCCC changes. **(Attachment 2)**

George Barbee, Kansas Association of Financial Services, appeared in support of **Sub 301**. He has been involved in long discussions as part of the Advisory Committee appointed by Commissioner Brant. The KAFS agrees with the majority of the changes and the result is a balanced approach. The last white page of his handout lists items in the bill which increase consumer protection. And the salmon colored page lists new powers of enforcement and regulation. This bill will not stop the out-of-state mail solicitations we receive, but will give the commissioner the ability to regulate them. Out-of-state lenders have a competitive advantage over Kansas lenders who have a physical presence, pay state and local taxes, and employ Kansas citizens. He respectfully requested that the bill be reported favorably as soon as possible. **(Attachment 3)**

Chuck Stones, Kansas Bankers Association, appeared stating that the KBA is supportive of **Sub 301** and all the proposed changes to the UCCC. A member of the KBA staff was on the task force that assisted the Commissioner this last year in making these proposed changes. Current law sets no usury limits on retail sales. When you go to Best Buy and buy an item and finance it there, that is a retail sale. Retail sales are in direct competition with finance companies. Yet, if you make arrangements to go to the finance company, they are subject to usury limits. The Kansas version of the UCCC was enacted as a consumer protection law. But circumstances develop that require changes in the law. Our law no longer protects consumers, it is only preventing Kansas companies from competing both in our state and nationwide. **Sub 301** will not affect the consumers of Kansas, it will allow a Kansas business to remain in Kansas and maybe even attract some business to the state. He urged the committee's support of the bill. **(Attachment 4)**

Chairman Cox closed the informational meeting on **Sub 301**.

Chairman Cox asked the committee's pleasure on **HB 2554 -Creating the agricultural linked deposit program**.

Representative Krehbiel said he'd heard a number of comments from his district in support of the bill so

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he moved to support the bill favorably for passage. The chairman asked if there was a second.

Representative Larkin said it was his understanding that the bill needed a few amendments.

Chairman Cox said that, if it was alright with Representative Krehbiel, we would back up and deal with the amendments first. Representative Krehbiel agreed.

Bruce Kinzie said the amendments were made to make the bill correspond with the State's Money Law. The program would still be administered by the State Treasurer, but the actual placement of the state money by way of investment account, would be done by the Director of Investments, who currently has authority to place that money. **(Attachment 5)** The KBA amendment is shown on page 2, lines 22 and 23 which states that the applicant will certify that he is an eligible farm operation.

Representative Grant asked if the fiscal note had been determined. Chairman Cox said he'd not seen an updated fiscal note. Representative Flora said Representative Holmes, Representative Shriver, Bruce Kinzie and himself met with the budget director. The budget director admitted that the fiscal note they produced was not correct but he had not supplied a new one. Representative Flora said he had some figures if the committee wanted to hear them. Representative Grant asked what the incorrect one was. Representative Cox asked if \$385,000 annually was correct. Representative Flora said no they had also included the amount of the loan. Someone asked if we knew what the fiscal impact of the amendments would be. Bruce Kinzie said the result should remain the same as the original bill because we would still receive 0% return on the lent money. The \$7 million is not an expense, the actual expense is the lost opportunity or lost earnings on the money.

Representative Humerickhouse asked Bruce Kinzie if the money was coming from the Municipal Investment Pool. Bruce answered no, it's what used to be termed State Idle Funds. It's now called the Big Lake Portfolio, it's where everything is dumped. Representative Humerickhouse asked what kind of interest it generated. Bruce said someplace between 4.5% and 5.0%. Representative Grant stated that there is no loss of the initial funds. It's only the interest on the funds.

Representative Flora said he looked at the cost as if there were 3 loans of \$7 million, made on the first day of each year, that were amortized over 8 years. He simply added them up. The first fiscal year is \$385,000, the next is \$730,000, the next is \$1 million, the next is \$908,000, etc. Over the 10 years period, it ends up being \$5.5 million. It's an average of about \$500,000 a year.

Representative Kreibel asked Bruce if on page 2, line 32 of the amendment where "place certificates" is struck, he needs to delete "of deposit" as well. Bruce said yes.

Representative Larkin said he's like to make a motion to adopt the balloon on HB 2554. Chairman Cox said he'd like to defer and see the final fiscal note first. He said we would be having another meeting to vote.

Chairman Cox presented the committee minutes for March 10, 1999 for approval. Representative Grant moved to approve the minutes as presented. Representative Vicrey seconded the motion. The motion carried.

The meeting adjourned at 4:30 p.m.

The date of the next meeting will be determined later.

The committee minutes were sent to committee members on April 2, 1999 with the understanding that the minutes would be considered approved if no additions, deletions, or corrections were received by 5:00 p.m. on April 8, 1999. None were received.

HOUSE FINANCIAL INSTITUTIONS COMMITTEE GUEST LIST

DATE: March 22, 1999

NAME	REPRESENTING
Kathy Olsen	KBA
Julie Luber	As-Co-op Council
Man Hamann	Div. of the Budget
DAVID BRANT	SEC. Comm.
George Barbee	Barbee's Assoc.
R. Franke	KGC
Bob Tulff	Consumer Credit
Jeanne Minshaw	Consumer Credit
Chuck Stones	KBA
Greg & Austin Stephens	Form
William R. Jones	Intrust Bank
Ron Baldwin	INTRUST Bank
Diane Isemar	Intrust Bank
Doug Wareham	KGFA
Chuck Chandler	Intrust Bank
Ron Gaches	Intrust Bank
SCOTT SCHNEIDER	FARM CREDIT



KANSAS

Bill Graves
Governor

OFFICE OF CONSUMER CREDIT COMMISSIONER

TESTIMONY REGARDING Substitute for SENATE BILL No. 301
Amendments to the Consumer Credit Code
House Financial Institutions Committee
March 22, 1999

David R. Brant
Acting
Commissioner

Mr. Chairman and members of the committee, thank you for this opportunity to testify regarding Substitute for Senate Bill No. 301.

The Kansas Consumer Credit Code, originally adopted by Kansas in 1973, needs to be updated and strengthened to enhance consumer protection. In the past year, I have assembled an Advisory Council to advise and assist the agency and a Drafting Committee to work on this proposed legislation. Attached for your information are the names of the individuals serving on these two groups.

Senate Bill No. 301 updates the Code in a number of areas, enhances the regulatory powers of the agency, and adds a number of consumer protections to address the abuses of sub-prime mortgage loans. The bill also contains a number of provisions concerning usury rates, consumer loans, and lender credit cards. This bill has been drafted as a collaborative effort.

I recommend that you review the Supplemental Note which provides a comprehensive overview of the bill. The following is a brief summary of the more significant "consumer protection" provisions:

- Section 1 Requires a county appraiser's estimate or an appraisal for second mortgage loans and certain first mortgage loans. Further requires that consumers be notified of the availability of credit counseling for mortgage loans which have a LTV ratio in excess of 100%.
- Section 2 Prohibits false, misleading, or deceptive advertising in mortgage loan solicitations. The drafting of this provision is based on a Michigan statute.
- Section 3 Prohibits balloon payments or negative amortization on certain 1st and 2nd mortgage loans which are (a) high-LTV (in excess of 100%) or (b) high-rate (12% or higher as defined by the new term "code mortgage rate").
- Section 7 Amends 16-1-201 and deletes in line 24 the condition of "face to face" solicitation to expand the coverage of the Code to loans offered by mail, telephone, or internet.
- Sections 12 and 13 Changes licensing standards to repeal the current financial test of "business assets of \$25,000" and now require a surety bond of \$100,000. Strengthens the administrator's powers to deny or revoke a lender's license.

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- Section 15 Amends 16a-2-401 to preserve the current 18% usury cap on second mortgage loans; raise the usury cap on closed-end consumer loans from 18% to 21%; and to remove the usury rate on in-state credit cards (see attached chart).
- Raises the current limit on up-front lender origination fees for code mortgage loans from 3% to 5% and imposes a new limit of 8% on all prepaid finance charges which would now include mortgage broker fees.
- Limits prepaid finance charges on refinancing loans within 12 months to now permit lender origination fees **only** on the “new money” portion and not on the amount refinanced.
- Section 25 and 26 Strengthens the civil and criminal sanctions for violations of the Code.
- Section 27 Enhances the agency’s examination authority.
- Section 29 Enhances the agency’s investigation powers and grants authority to issue subpoenas.
- Authorizes the administrator to conduct exams on out-of-state locations rather than at the lender’s discretion.
- Section 30 Empowers the administrator to censure and impose fines, to issue cease and desist orders, and to impose administrative sanctions after an opportunity for a hearing.

Again, I recommend that you review the Supplemental Note for a summary of the bill’s other provisions.

Thank you for your consideration.

OFFICE OF CONSUMER CREDIT COMMISSIONER

1998-99 Advisory Council

David Brant
Acting Commissioner

Sonya Allen
Office of the Bank Commissioner

Pat Bolan
American General Finance Inc.

Jerel Wright
Credit Union Administrator

George Barbee
Kansas Association of Financial Services

Robert Elliott
(Former Consumer Credit Commissioner)

Barkley Clark
Mark Ovington
Mark Hargrave
Shook, Hardy & Bacon L.L.P.

Senator Donald Biggs
Senate Financial Institutions and Insurance
Committee

Anne Lolley
Kansas Bankers Association

Representative Ray Cox
House Financial Institutions Committee

SueAnn Schultz
Insurance Management Associates

Other Participants

Robert Trigg, Financial Examiner
Jo Anne Minihan, Financial Examiner
Debbie Richardson, Public Service
Administrator
Office of Consumer Credit Commissioner

William G. Wolff
Legislative Research Department

Guen Easley
Nancy Ulrich
Assistant Attorneys General

David Lord
Office of the Securities Commissioner

Marc Hamann
Division of the Budget

OFFICE OF CONSUMER CREDIT COMMISSIONER

1998-99 UCCC Drafting Committee

David Brant
Acting Commissioner

Greg Taylor
Household Financial

SueAnn Schultz
Insurance Management Associates

Terri Thomas
Housing and Consumer Credit Counseling

Sonya Allen
Kevin Glendening
Office of the Bank Commissioner

Steve Rarrick
Jim Welch
Assistant Attorneys General

Robert Trigg, Financial Examiner
Jo Anne Minihan, Financial Examiner
Samantha Parks, Law Clerk
Office of Consumer Credit Commissioner

David Lord
Office of the Securities Commissioner

Barkley Clark
Mark Ovington
Mark Hargrave
Shook, Hardy & Bacon L.L.P.

Professor Keith Meyer
University of Kansas School of Law

Professor Steve Ramirez
Washburn University School of Law

Revised 3/5/99

USURY RATES FOR CONSUMER CREDIT TRANSACTIONS

	KS Year Effective	Current KS Usury Rate	Proposed KS (SB 301) per amendments	MO	OK	IA	CO	NE	WI	IN
In state credit cards (Open End)	1974	18%	No limit	No limit	21%	No limit	21%	No limit	No limit	21%
Out of state credit cards (Open End)	1980	No limit	No limit	No limit	No limit	No limit	No limit	No limit	No limit	No limit
Retail sales (Open end)	1997	No limit	No limit	No limit	21%	No limit	21%	18%	No limit	21%
Retail sales (Closed end)	1997	No limit	No limit	No limit	21%	21%	21%	18%	No limit	21%
Consumer loans (Open end)	1974	18% ¹	No limit	No limit	21%	No limit	21%	21%	No limit	36% ⁶
Consumer loans (Closed end)	1995	18% ¹	21%	No limit	21%	21% ⁶	21%	21%	No limit	36% ⁶
Auto Retail Sales (Closed end)	1997	No limit	No limit	24%	21%	27%	21%	18%	No limit	36% ⁶
1st Mortgage (Fixed rate)	1983	1.5% over FreddieMac or 18% if made per UCCC	1.5% over FreddieMac or 18% if made per UCCC ²	No limit	21%	No limit if \$25,000 or more ⁷	45% ⁴	No limit	No limit	No limit
2nd Mortgage (Fixed rate)	1995	18%	18%	No limit	21%	21% ⁷	21%	No limit	No limit	36% ⁶
1st & 2nd Mortgages (Variable rate)	1983	No limit	No limit	No limit	21%	21% ⁷	1st--45% ⁴ 2nd--21%	No limit	No limit	1st--No limit 2nd--36% ⁶
1st & 2nd Mortgage (Balloon payment)	1983	No limit	No limit unless prohibited ³	No limit	21%	21% ⁷	1st--45% ⁴ 2nd--21%	No limit	No limit	1st--No limit 2nd--36% ⁶
Rent To Own	N/A	Not regulated	Not regulated	Not regulated	Not regulated	Not regulated	Not regulated	Not regulated	Not regulated	Not regulated
Pay Day Loans (\$100 for 16 days)	1993	342% (\$15 charge)	342% ⁵ (\$15 charge)	\$15 per loan	240% (\$20 for 30 days)	380% (\$16.67 for 16 days)	\$25 per loan	\$15 per \$100 loan	No limit	\$33 per loan

¹ 36% on \$860 or less; 21% on \$861-2,860; 14.45% on amounts over \$2,860 or alternate of 18% on the full amount.

² "High-rate" and "High-LTV" first mortgages would be subject to the UCCC.

³ An amendment is being considered to prohibit balloon payments for "High-rate" and "High-LTV" first and second mortgage loans.

⁴ This is the criminal usury limit. First mortgages are not governed by the Colorado Consumer Credit Code.

⁵ Senate Bill No. 272 would significantly change allowed charges and terms for payday loans.

⁶ Iowa: Rates range from 18-36% depending on the amount financed. Indiana: Rates range from 15-36% depending on the amount financed.

⁷ 21% if the amount financed is under \$25,000; mortgages of \$25,000 or more are not governed by the Iowa Consumer Credit Code.

Note: "No limit" refers to a statutory provision allowing the interest rate to be subject to agreement between the lender and the consumer.

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Kansas House of Representatives
Informational Meeting
Monday, March 22, 1999
Charles Q. "Chuck" Chandler, III
Chairman and CEO, INTRUST Financial Corporation



As a life-long Kansas resident and businessman, I am honored to have the opportunity to visit with you today. I feel a sense of responsibility to the employees of INTRUST, to my peers across the state, and to all Kansans, to share with you my beliefs about the issues regarding the current UCCC laws.

My family has been in the banking business in Kansas for more than 100 years. In the year 2000, we will celebrate our centennial in Wichita with INTRUST Bank and its predecessors. This month, I am celebrating my 50th year in Kansas banking.

INTRUST has \$2 billion in assets, 900 employees, and 28 locations, including the Kansas communities of Valley Center, Haysville, Derby, Andover, El Dorado, Ottawa, and Johnson County. However, we do business all over the state through aggressive correspondent banking and credit card activities. INTRUST Financial Corporation is the largest independently owned bank holding company in the state of Kansas.

Every employee at INTRUST is dedicated to assisting Kansas residents with their financial needs. We strive to be a leader in innovation; we had the first drive-through bank, the first ATM in Wichita, and INTRUST also introduced the first true internet banking site in Kansas.

A very important aspect of our business is consumer lending. We currently have \$250 million in automobile loans and \$86 million worth of home loans. As you can see, we are very interested in the UCCC laws and how they allow us to compete in a marketplace that is incredibly competitive. The changes that Consumer Credit Commissioner David Brant has proposed to the UCCC will have the biggest impact on our credit card portfolio. INTRUST Bank is the largest credit card issuer located in the state, with 145,000 accounts and total outstandings of \$152 million.

Kansas has a history as a state that's good for banks and good for consumers. And we don't want that to change.

Let me explain how we came to support the bill that would change the laws.

Last year, both the Kansas State and Kansas University alumni associations requested proposals for their credit card business, a business that has become very competitive nationally. The consolidation of the credit card business has created unprecedented competition among the top six issuers, who now control 65% of the market. Each of these national players benefit from much

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more flexible state laws than we have within the state of Kansas, laws which allow them to price their products to better meet the needs of their consumers.

INTRUST bid the alumni business very aggressively, understanding that we would need to use another financial model to compete with these national players. The financial model we looked at was Nebraska, which would mean relocating our credit card bank there, a state with a friendlier regulatory environment. We were awarded the contracts, but the commitments we made came with business costs that we cannot overcome under current Kansas UCCC laws.

Now let me share with you four compelling reasons to support passage of the bill containing the changes in the UCCC laws.

1. *Our current state law does not protect Kansas citizens.* We estimate that 85% of credit cards used by Kansas residents are issued by large, out-of-state banks. In the credit card business, interest rates and fees are totally unrestricted because the banks may simply choose to domicile their business in states that have absolutely no restrictions. So Kansans, who are choosing out-of-state card companies because they offer lower rates, are being regulated by the laws of other states. If INTRUST were to directly compete with these companies, we would violate current Kansas usury laws. Card centers for Commerce Bank of Kansas City and United Missouri Bank are both in Nebraska, while Mercantile's card center is in Illinois, Bank America's is in Arizona, and Citibank's is in South Dakota.
2. *We ask you to allow the free market system to work.* Let INTRUST and other Kansas banks compete in a marketplace that is already wide open. Passage of this bill will allow that to occur.
3. *Who better than a Kansas bank, already committed to serving Kansas consumers, should meet the bankcard needs of Kansas alumni associations?* INTRUST has committed to making substantial investments to develop the alumni affinity cards. We've made this investment for many reasons. One of the reasons is we need to be competitive with the national credit card players. But the real reason we invested in these universities is because we believe we understand how to offer Kansans, better than anyone else, a credit card that allows them to support their favorite Kansas alma mater.
4. *A major credit card study shows Kansas as the last state in which a company would want to operate a credit card bank.* Attached to my comments is a summary of this study. You'll notice on page two of the summary of states that Kansas is 50. Kansas lost to states with more desirable laws for banks. The Kansas law as it stands today has prevented credit card issuers from locating in Kansas.

INTRUST wants to keep our credit card business in Kansas. But we need your help.

It seems ironic to me that a company, who has been doing business in Kansas, for Kansans, for more than 100 years, may have to move a part of our business to Nebraska to remain competitive.

I urge your support of the UCCC changes recommended by Commissioner Brant.

A Study on the Attractiveness of States to Credit Card Issuing Firms



Sponsored by:
MasterCard International
888 Seventh Avenue
New York, NY 10106

April 1995

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State Attractiveness for Credit Card Firms

WELLS FARGO
 CITIBANK
 MORGAN/UMBS
 AMERAMERICA
 BNA / FIRST USA
 DISCOVER / CHASE

Rank	State	Weighted Index	Restrictions on APR	Late Fees	Legal Environment	Fair Credit Reporting	Overlimit Fee	Cost of Doing Business	Availability of Skilled Workforce	Quality of Life
1	South Dakota	2.53	3	3	2	1	3	3	2	3
2	Utah	2.27	3	2	2	0	3	2	3	3
3	Nebraska	2.24	3	3	2	0	3	2	2	2
4	Louisiana	2.12	3	3	2	1	3	3	0	0
5	Arizona	2.12	3	3	2	0	3	1	2	3
6	Delaware	2.09	3	3	2	1	3	1	2	1
6	Virginia	2.09	3	3	2	1	3	1	2	1
8	Idaho	1.98	3	0	2	1	3	3	2	1
9	Nevada	1.98	3	3	2	0	3	2	0	2
10	Oregon	1.93	3	0	2	1	1	3	2	2
11	New Mexico	1.93	3	1	2	0	1	3	1	3
12	Florida	1.89	3	3	2	1	3	0	1	3
13	New Hampshire	1.85	3	1	2	0	1	1	3	3
14	Ohio	1.82	2	3	2	1	3	2	0	1
15	Georgia	1.79	3	3	2	1	3	0	1	1
16	New York	1.65	3	3	1	0	3	0	2	1
17	Montana	1.61	3	0	1	0	1	3	2	1
18	Alabama	1.60	3	3	0	1	3	2	0	1
19	Washington	1.57	2	2	1	0	0	1	3	3
20	Mississippi	1.54	2	2	1	1	1	3	0	1
21	Illinois	1.52	3	3	1	0	3	0	1	1
22	Iowa	1.48	3	2	0	1	2	2	1	0
23	Connecticut	1.48	3	1	1	0	1	0	3	3
24	North Dakota	1.47	0	1	1	1	1	3	3	2
24	Tennessee	1.47	1	3	2	1	3	1	0	1

Restrictions on APR
 0 = 18% or less
 1 = Over 18% to 21%
 2 = Over 21%
 3 = No limit

Late Fees
 0 = Prohibited or low limit
 1 = No clear lim.
 2 = High limit
 3 = No limit

Legal Environment
 0 = Litigation or restrictive environ.
 1 = Moderate restrictions
 2 = No significant litigation and non-restrictive environment

Over Limit Fees
 0 = Prohibited or low limit
 1 = No clear limit
 2 = High limit
 3 = No limit

Credit Reporting (CR)
 0 = CR statutes
 1 = No CR statutes

Cost of Business
 0 = Most expensive
 1 = 2nd quartile
 2 = 3rd quartile
 3 = Least expensive

Skilled Workforce
 0 = Least skilled
 1 = 2nd quartile
 2 = 3rd quartile
 3 = Most skilled

Quality of Life
 0 = Least attrac.
 1 = 2nd quartile
 2 = 3rd quartile
 3 = Most attrac.

Note: Figures in parentheses show 1994 index rankings based on new weightings and specifications.

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State Attractiveness for Credit Card Firms

Rank	State	Weighted Index	Restrictions on APR	Late Fees	Legal Environment	Fair Credit Reporting	Overlimit Fee	Cost of Doing Business	Availability of Skilled Workforce	Quality of Life
26	Maryland	1.37	2	3	1	0	0	0	2	2
27	South Carolina	1.35	3	0	0	1	2	3	1	0
28	California	1.33	3	1	0	0	2	0	3	3
29	Oklahoma	1.27	1	2	0	0	2	3	1	1
30	Hawaii	1.26	0	3	1	1	3	0	3	0
31	Colorado	1.26	1	2	0	1	0	1	3	3
32	Indiana	1.09	1	2	0	1	2	2	0	2
33	Arkansas	1.08	0	1	1	1	1	3	0	2
34	Alaska	1.03	0	1	1	1	1	1	3	0
35	Vermont	0.93	0	0	1	0	0	2	3	0
36	Wisconsin	0.92	0	2	0	1	2	1	1	3
37	New Jersey	0.92	2	0	0	1	0	0	3	2
38	Maine	0.89	3	0	0	0	1	1	1	0
38	North Carolina	0.89	0	0	1	1	0	2	1	3
40	Kentucky	0.89	1	0	1	0	0	3	0	0
41	Wyoming	0.85	1	0	0	1	0	2	2	0
42	Massachusetts	0.84	0	2	0	0	1	0	3	2
42	Minnesota	0.84	0	0	1	0	2	0	3	3
44	Pennsylvania	0.74	0	2	0	1	3	1	0	1
45	Missouri	0.71	0	0	1	1	0	2	0	2
46	Michigan	0.70	0	1	1	0	1	1	1	0
47	Rhode Island	0.66	0	1	1	0	1	0	2	0
48	Texas	0.60	0	0	1	0	0	1	1	2
49	West Virginia	0.58	0	0	0	1	0	3	0	0
50	Kansas	0.57	0	0	0	0	2	2	1	0

Restrictions on APR
 0 = 18% or less
 1 = Over 18% to 21%
 2 = Over 21%
 3 = No limit

Late Fees
 0 = Prohibited or low limit
 1 = No clear lim.
 2 = High limit
 3 = No limit

Legal Environment
 0 = Litigation or restrictive environ.
 1 = Moderate restrictions
 2 = No significant litigation and non-restrictive environment

Over Limit Fees
 0 = Prohibited or low limit
 1 = No clear limit
 2 = High limit
 3 = No limit

Credit Reporting (CR)
 0 = CR statutes
 1 = No CR statutes

Cost of Business
 0 = Most expensive
 1 = 2nd quartile
 2 = 3rd quartile
 3 = Least expensive

Skilled Workforce
 0 = Least skilled
 1 = 2nd quartile
 2 = 3rd quartile
 3 = Most skilled

Quality of Life
 0 = Least attrac
 1 = 2nd quartile
 2 = 3rd quartile
 3 = Most attrac

Note: Figures in parentheses show 1994 index rankings based on new weightings and specifications.

STATEMENT TO
HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS
SENATE BILL 301

Mr. Chairman and members of the Committee, my name is George Barbee. I am appearing today on behalf of the Kansas Association of Financial Services in support of Senate Bill 301. The members of KAFS make consumer credit loans under the regulations of Federal laws and the Kansas Uniform Consumer Credit Code (UCCC).

I, and others within our industry, have been party to discussions through an Advisory Committee appointed by Commissioner David Brant to formulate amendments to the UCCC to improve the availability of credit to the consumer and to create a level playing field with our out-of-state competitors.

Senate Bill 301 has several amendments which have been addressed at this hearing by different representatives from different sectors of the lending industry. We agree with the majority of these changes and I appreciate this opportunity to say that Senate Bill 301 is a balanced approach, which imposes even more regulatory controls in a number of areas. The bill:

- Strengthens licensing and enforcement powers over supervised lenders
- Requires appraisals and disclosures for high loan-to-value mortgages
- Imposes new tougher-than-federal-law regulations on balloon payments and negative amortizations of mortgage loans
- Sets new limits on prepaid finance charges
- Places restrictions on "loan-flipping"
- Makes high interest rate or loan-to-value first mortgages subject to the Code

Attached to my handout is a list of several of the increased consumer protection amendments.

We have seen a quantum leap in second mortgage loan activity in Kansas. A great deal of this activity has originated with out-of-state mortgage firms marketing in a manner that has become familiar to you and me as we have been bombarded with television commercials and mailings to our homes. Senate Bill 301 would give the Commissioner of Consumer Credit more authority in the area of licensure of second mortgage lenders. These amendments will not stop the mail solicitations you and I have been receiving, but they will give the Commissioner the ability to provide regulation in a manner to require responsible response to Kansas laws.

Perhaps the most important provision to us is the provision to allow us to deal with loan rates on an agreed to basis with each customer, except for closed end loans, which would be capped at 21%. This bill would add Kansas to a list of, at least, 26 states with no maximum interest rate ceilings in the other loan categories.

Out-of-state lenders have a competitive advantage over Kansas lenders who have a physical presence, pay state and local taxes, and employ Kansas citizens. Credit card issuers can locate in a state with no rate and fee limitations and use that state's credit laws in Kansas. This places Kansas lenders at a competitive disadvantage.

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Let me expand just a moment on why lending parity will create competition. My members' loan offices are located in Kansas. They are a presence in Kansas. They have approximately 170 loan offices in Kansas. They have over 300 employees in Kansas. The companies and the people pay taxes. The people attend church here; their children go to school here; the people join civic clubs, etc. But, we are held to a higher standard of rate regulation than our out-of-state competition. With equal regulation the Kansas operations can compete with out-of-state competitors.

This bill simply establishes parity of regulation.

The consumer credit lenders do not obtain their lending capital from depositors; they must buy the money at current rates. They may want to expand their activities in Kansas. They may want to offer innovative products in Kansas, but it costs them more to employ people and provide for other general overhead expenses than it does for their out-of-state competitors who make loans without a presence in Kansas. These are factors to be considered when making management decisions on where to place capital and where to make investments. Senate Bill 301 addresses some of these concerns, and to some degree, provides more of a level playing field.

Mr. Chairman, and members of the Committee, thank you for the opportunity to speak in support of Senate Bill 301 as we respectfully request that you report it favorably, as soon as possible.

I thank you again for the opportunity to appear today and will stand for questions should you have any.

SENATE BILL 301
INCREASED CONSUMER PROTECTIONS

1. New requirement for disclosures and new consumer rights for loans above 100% loan-to-value ratio. *Page 1, Section 1, (3)*
2. New requirement for lenders to obtain appraisals. *Page 1, Section 1, (3)*
3. New enforcement of false, deceptive or misleading advertising. *Page 2, New Section 2*
4. New state enforcement powers for any loan made to Kansas citizens including out-of-state mail loans. *Page 6, Section 7, (b)*
5. Strengthened new definitions clarifying consumer rights and eliminating ambiguities. *Pages 8 thru 17, Section 8*
6. New prohibitions on balloon loans and negative amortization loans. *(Page 5, Section 5, (l))*
7. New enforcement under the consumer credit code for high rate first mortgage loans. *Page 4, Section 5, (h)(i)*
8. New limitations on computation of finance charges. *Pages 17 thru 18, Section 9*
9. Strengthen licensing procedures and increased financial worthiness standards. *Pages 22 thru 24, Section 12*
10. Increased penalties for violations of the consumer credit code. *Pages 35 thru 36, Section 24*
11. Increase powers of the consumer credit code commissioner to examine records and refer actions to the state Attorney General. *Pages 37 thru 38, Section 27*
12. New investigatory and enforcement powers. *Pages 39 thru 40, Section 27*
13. New restrictions on fees charged for refinancing existing loans within 12 months after the date of the original loan. *Page 27, Section 14, Subsection 7*
14. Allows for payments received in penalty settlements to be used for purpose of consumer education. *Page 37, Section 27,(1)(c)*

SENATE BILL 301
NEW POWERS OF ENFORCEMENT & REGULATION

Senate Bill 301 provides the Consumer Credit Commissioner *new powers and authority* to:

1. Take action against false, misleading or deceptive advertising. (Section 2, Page 2)
2. Require licensed lenders to maintain a \$100,000 surety bond. (Section 12, Page 23)
3. Deny applications for new licenses or renewal of licenses. (Section 12, Page 24)
4. Revoke licenses. (Section 13, Pages 24-25)
5. Double fines for failure to disclose information. (Section 25, Page 35)
6. Increase penalties for intentional violations of the code by licensed lenders or any person. Second and subsequent violations will be severity level 7 non-person felonies. (Section 26, Page 36)
7. Establish consumer credit education programs as a condition in settlements of investigations and examinations. (Section 27, Page 37)
8. Refer evidence of violations to the attorney general or proper county or district attorney. (Section 27, Page 38)
9. Allow the attorney general to appoint an attorney within the consumer credit commissioner's office as a special prosecutor. (Section 27, Page 38)
10. Conduct public or private examinations or investigations within or outside the state. (Section 29, Page 41)
11. Require persons to file statements in writing and under oath. (Section 29, Page 42)
12. Administer oaths and affirmations, subpoena witnesses, compel witnesses' attendance, adduce evidence and require the production of any matter which is relevant to an examination or investigation. (Section 29, Page 41)
13. Enforce subpoenas or that any refusal to obey subpoenas or produce documentary evidence may be punished by a court as a contempt of court. (Section 29, Page 41)
14. Enforce subpoenas in Kansas at the request of a consumer credit code administrator of another state. (Section 29, Page 41)
15. Examine records that are located out-of-state. (Section 29, Page 42)
16. Issue cease and desist orders. (Section 30, Page 43)
17. Impose civil fines of up to a maximum of \$5,000 per violation. (Section 30, Page 44)

Kansas Bankers Association

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3-22-99

TO: House Financial Institutions Committee
FROM: Chuck Stones, Director of Research

RE: SB 301

Mr. Chair and Members of the Committee:

Thank you for the opportunity to appear before you regarding SB 301. The KBA is supportive of all the changes proposed to the Uniform Consumer Credit Code by this bill. A member of our staff was on the task force that assisted the Commissioner this last year in making these proposed changes.

My comments will focus on the portion of the bill affecting interest rate caps and also fees for lender credit cards. The need for this change is dramatically demonstrated by the case of Intrust Bank and their credit card operation. Kansas used to be the home to 5 or 6 substantial credit card operations. However, the business climate for credit card operations is so bad, (ranked last in the nation in 1995) that number has been reduced to one. We are now facing the very real possibility that that number will be zero if SB 301 does not pass. This is not a threat or something held over the heads of the legislature, but simply a business decision being made by Intrust Bank in order to compete with the other credit card companies for business in Kansas.

As you have heard, in reality the U.C.C.C. no longer protects Kansas consumers. Credit card companies are able to import their rate and fee structure from whatever states they DO BUSINESS IN. Of the many credit card solicitations you received this past year, how many were from a Kansas company. Unless you are a member of the KU or KSU alumni association, probably none. If you are, you probably got a mailing from Intrust. Intrust Bank provides the affinity credit card program for the alumni association at KU and KSU. This past year they bid to keep the business. They were bidding against two major national credit card issuers. The other companies, of course were able to bid using the much more liberal laws of the states where they were located. In order to consider the bid Intrust Bank decided to use the laws of Nebraska as a basis for their bid. They have made the decision to move their credit card operations to Nebraska if Kansas fails to change its law. It seems ironic that in order for a Kansas company to provide a service to the two major universities in the State that they are forced to domicile that business in Nebraska. Especially since the consumer is not protected by the Kansas UCCC. The bank can still provide the service, the consumer will still get a credit card using provisions almost identical to SB 301, and the only loser is Kansas. It loses a strong business, the tax dollars, and the jobs associated with that business. The only people that

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will know the difference will be the management of Intrust Bank, to whom Kansas said, "your business is not important to us" and the General Fund of the State of Kansas. The consumer will certainly not know the difference. They will still get an Intrust credit card with a Jawhawk or a Power Cat on it. They will not even notice that the card is now issued from Nebraska.

In conclusion, the Kansas version of the UCCC was enacted as a consumer protection law. But as is the case in many instances, circumstances develop that require changes in the law. Our law no longer protects consumers, it is only preventing Kansas companies from competing both in our state and nationwide. SB 301 will not affect the consumers of Kansas, it WILL allow a Kansas business to remain in Kansas and maybe even attract some of that business back to the state.

We urge your support of SB 301.

Credit/Debit/ATMs

16

AMERICAN BANKER

Monday, May 1, 1995

South Dakota Ranked as Best, Kansas Worst for Card Businesses

By VALERIE BLOCK

South Dakota topped the list of states best suited to operate a card business in 1994, according to a DRI/McGraw-Hill study.

Kansas came in last.

"It wasn't a year of big change," said David Wyss, research director for DRI/McGraw-Hill in Lexington, Mass. But he said Pennsylvania, California, and Mississippi notably eased regulations.

The study, sponsored by MasterCard International, is meant to address the main concerns for issuers in choosing a location for their credit card operations.

It considers such factors as the number of class action suits filed against banks and restrictions on annual percentage rates, late fees, and over-limit fees, said Charlotte Rush, MasterCard's vice president for public affairs in Washington. Also weighed are the cost of doing business, the quality of life, and the availability of skilled labor, she said.

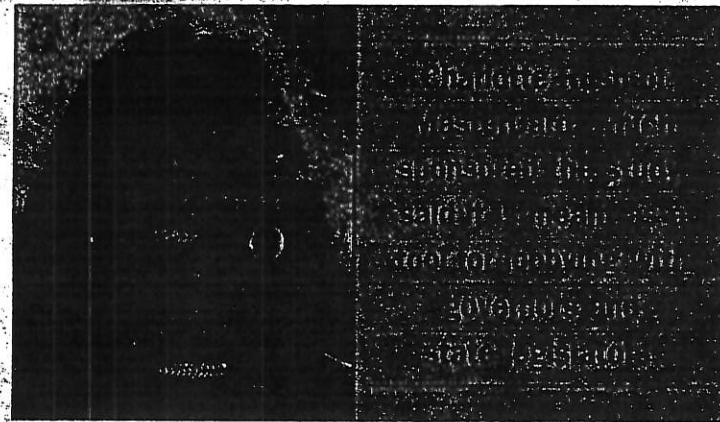
She added that the survey, in its third year, is not intended to be used as the primary tool for a

relocation decision, but is "more of a lobbying tool used to work with state legislatures and governors to show where they could improve the regulatory climate."

While the study hasn't uncovered a great shifting of state ranking, Mr. Wyss said there have been regulatory improvements, inspired by legislators' "fear of losing jobs. People are realizing jobs don't grow on trees." He pointed out that the card industry creates high-paying, low-polluting employment for computer programmers, keypunch operators, telemarketers, and others.

Scott Cammarn, partner with Zeiger, Dreher & Carpenter, the Columbus, Ohio-based law firm that compiled state regulations for the study, said there is substantial pressure on states to make a better legal environment for issuers. "Because of the failure of Congress to resolve the Fair Credit Reporting Act at the federal level, states are stepping into the fray and enacting their own statutes," he said.

According to the study, South Dakota pushed Utah to number two. Arizona and Nevada nudged



up a few places each to numbers five and nine, respectively.

Virginia and Delaware, tied for sixth place, got high marks for legal issues alone, but operating-cost and quality-of-life ratings were less glowing.

Louisiana moved up significantly, Mr. Wyss said, from No. 17 to No. 4, after a reassessment of its regulatory environment. The state eased restrictions on annual percentage rates.

Nebraska ranked third, Idaho eighth, and Oregon 10th on the list of most desirable card sites.

Florida, regarded as having

one of the more favorable regulatory environments, fell two places to No. 12 because of an increase in business costs.

Georgia suffered a similar fate, slipping from 12th to 16th, because of an increase in premises costs in Atlanta, attributed to the Olympics.

South Dakota — home of the Citibank's card operation, the largest in the country — Utah, Arizona, and Nevada have picked up the most business from outside states, said Mr. Wyss. He said they benefited from being close to California, which im-

proved its rank last year from 33d to 28th by lightening its regulatory burden. Still, he said, the Golden State has an "unfriendly legal climate, which costs it a lot of points, and it's expensive to operate in."

By eliminating restrictions on annual percentage rate, Maine shot up from last place to 38th. Even so, Mr. Wyss said the cost of doing business is "fairly high up there, and the overall legal environment rates poorly."

Mississippi had the best jump, from 32d to 20th, mostly due to regulation of annual percentage rates.

Ms. Rush noted that Pennsylvania improved slightly, moving up five places, but remained in the bottom 10. While its legislature eased fee regulation, "its legal environment is very troubling," said Ms. Rush. "A judge has ruled against several banks in key late fee litigation."

Worst-ranked Kansas has the worst legal climate, the study found. It cited tight restrictions on interest rates, late fees, a restrictive fair-credit law, and high operating expenses in Kansas City.

4-3

HOUSE BILL No. 2554

By Committee on Appropriations

9 AN ACT concerning agriculture; creating the Kansas agricultural linked
10 deposit program; providing certain requirements; prescribing certain
11 duties for the state treasurer.

[; amending K.S.A. 75-4209 and 75-4237 and
repealing the existing sections

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

14 Section 1. ~~[This act]~~ shall be known and may be cited as the Kansas
15 agricultural linked deposit program.

[The provisions of sections 1 through 8

16 Sec. 2. As used in this act: (a) "Agricultural linked deposit" means ~~[a~~
17 ~~certificate of deposit placed by the state treasurer]~~ with an eligible lending
18 institution for the purpose of carrying out the intent of this act;

[an investment account placed by the director of
investments under the provisions of article 42
of chapter 75 of the Kansas Statutes Annotated

19 (b) "agricultural linked deposit loan package" means the forms pro-
20 vided by the state treasurer for the purpose of applying for an agricultural
21 linked deposit;

22 (c) "eligible lending institution" means a ~~[financial institution]~~ that
23 agrees to participate in the Kansas agricultural linked deposit program
24 and is eligible to be a depository of state funds; and

[bank, as defined under K.S.A. 75-4201, and
amendments thereto

25 (d) "farm operations" means an individual or organization involved
26 in farming except that "farm operations" shall not include a corporation
27 other than a family farm corporation as defined in K.S.A. 17-5903, and
28 amendments thereto.

29 Sec. 3 (a) The state treasurer is hereby authorized to administer the
30 Kansas agricultural linked deposit program. Such program shall be for
31 the exclusive purpose of providing ~~[funding]~~ for the construction of new
32 or used grain storage facilities. The state treasurer shall promulgate rules
33 and regulations to carry out the provisions of this act.

[incentives for the making of loans

34 (b) The state treasurer shall submit an annual report outlining the
35 status of the program to the governor and the legislature.

36 Sec. 4. (a) The state treasurer is hereby authorized to disseminate
37 information and to provide agricultural linked deposit loan packages to
38 the lending institutions eligible for participation in this act.

39 (b) The agricultural linked deposit loan package shall be completed
40 by the borrower before being forwarded to the lending institution for
41 consideration.

42 (c) (1) An eligible lending institution that agrees to receive an ag-
43 ricultural linked deposit shall accept and review applications for loans

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1 from eligible farm operations. The lending institution shall apply all usual
2 lending standards to determine the credit worthiness of eligible farm
3 operations. No single linked deposit loan for the construction of new or
4 used grain storage facilities shall exceed \$50,000. The total amount of
5 agricultural linked deposit loans shall not exceed \$7,000,000 in any one
6 year.

7 (2) Only one linked deposit loan shall be made and be outstanding
8 at any one time to any farm operation.

9 (3) No loan shall be amortized for a period of more than eight years.

10 (d) An eligible farm operation shall certify on its loan application that
11 the reduced rate loan will be used exclusively for the purposes of this act.

12 (e) The eligible lending institution may approve or reject an agricul-
13 tural linked deposit loan package based on the lending institution's eval-
14 uation of the eligible farm operation included in the package, the amount
15 of the individual loan in the package, and other appropriate
16 considerations.

17 (f) The eligible lending institution shall forward to the state treasurer,
18 an approved agricultural linked deposit loan package, in the form and
19 manner prescribed and approved by the state treasurer. The package shall
20 include information regarding the amount of the loan requested by each
21 farm operation and such other information regarding each farm operation
22 the state treasurer requires. ~~The lending institution shall certify that each~~
23 ~~applicant is an eligible farm operation.~~

, including a certification by the applicant
that such applicant is an eligible farm
operation

24 Sec. 5. (a) The state treasurer may accept or reject an agricultural
25 linked deposit loan package based on the state treasurer's evaluation of
26 whether the loan to the eligible farm operation meets the purposes of
27 this act. If sufficient funds are not available for a linked deposit, then the
28 applications may be considered in the order received when funds are once
29 again available subject to a review by the lending institution.

shall certify to the director of investments
the amount required for such agricultural
linked deposit loan package and the director of
investments shall place an agricultural link of
deposit in the amount certified by the state
treasurer

30 (b) Upon acceptance, the state treasurer ~~may place certificates of~~
31 ~~deposit~~ with the eligible lending institution at a zero interest rate. When
32 necessary, the state treasurer may ~~place certificates~~ of deposit prior to
33 acceptance of an agricultural linked deposit loan package.

request the director of investments to place
such agricultural link deposit

34 (c) The eligible lending institution shall enter into an agricultural
35 linked deposit agreement with the state treasurer, which shall include
36 requirements necessary to implement the purposes of the Kansas agri-
37 cultural linked deposit program. Such requirements shall include an
38 agreement by the eligible lending institution to lend an amount equal to
39 the agricultural linked deposit to eligible farm operations at an interest
40 rate that does not exceed 4%. The agreement shall include provisions for
41 the ~~certificates of~~ deposit to be placed for ~~any~~ maturity considered ap-
42 propriate ~~by the state treasurer~~ in coordination with the underlying linked
43 deposit loan. ~~Interest shall be paid at the time determined by the state~~

agricultural link

a

The agreement shall include provisions for the reduction of the agricultural link deposit in an amount equal to any payment of loan principal by the eligible farm operations.

5-3

Insert, see attached.

12.

1 [Treasurer]
2 Sec. 6. (a) Upon the placement of an agricultural linked deposit with
3 an eligible lending institution, the institution shall fund the loan to each
4 approved eligible farm operation listed in the agricultural linked deposit
5 loan package in accordance with the agricultural linked deposit agreement
6 between the institution and the state treasurer. The loan shall be at a rate
7 as provided in section 5 and amendments thereto. A certification of com-
8 pliance with this section in the form and manner as prescribed by the
9 state treasurer shall be required of the eligible lending institution.

10 (b) The state treasurer shall take any and all steps necessary to im-
11 plement the Kansas agricultural linked deposit program.

12 Sec. 7. The state and the state treasurer shall not be liable to any
13 eligible lending institution in any manner for payment of the principal or
14 interest on the loan to an eligible farm operation. Any delay in payments
15 or default on the part of an eligible farm operation does not in any manner
16 affect the agricultural linked deposit agreement between the eligible
17 lending institution and the state treasurer.

18 Sec. 8. The provisions of this act shall expire on July 1, 2002.

19 Sec. [9] This act shall take effect and be in force from and after its
20 publication in the Kansas register.

Sec. 9. K.S.A. 75-4209 is hereby amended to read as follows:
75-4209. (a) The director of investments may invest and reinvest state moneys eligible for investment which are not invested in accordance with K.S.A. 75-4237, in the following investments:

(1) Direct obligations of, or obligations that are insured as to principal and interest by, the United States of America or any agency thereof and obligations and securities of the United States sponsored enterprises which under federal law may be accepted as security for public funds, on and after the effective date of this act moneys available for investment under this subsection shall not be invested in mortgage-backed securities of such enterprises and of the government national mortgage association, except that any such mortgage-backed securities held prior to the effective date of this act may be held to maturity;

(2) repurchase agreements with a bank or a primary government securities dealer which reports to the market reports division of the federal reserve bank of New York for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof and obligations and securities of United States government sponsored enterprises which under federal law may be accepted as security for public funds;

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

(b) When moneys are available for deposit or investments, the director of investments may invest in SKILL act projects and

bonds pursuant to K.S.A. 1997 Supp. 74-8920, and amendments thereto, and in state agency bonds and bond projects.

(c) When moneys are available for deposits or investments, the director of investments may invest in preferred stock of Kansas venture capital, inc., under terms and conditions prescribed by K.S.A. 74-8203, and amendments thereto, but such investments shall not in the aggregate exceed a total amount of \$10,000,000.

(d) When moneys are available for deposits or investments, the director of investments may invest in loans pursuant to legislative mandates, except that not more than the lesser of 10% or \$80,000,000 of the state moneys shall be invested.

(e) Interest on investment accounts in banks is to be paid at maturity, but not less than annually.

(f) Investments made by the director of investments under the provisions of this section shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

(g) Investments under subsection (a) or (b) of this section or under K.S.A. 75-4237 shall be for a period not to exceed four years, except that agricultural link deposits authorized under the provisions of sections 1 through 8, shall not exceed a period of eight years.

(h) Investments in securities under paragraph (1) of subsection (a) shall be limited to securities which do not have

any more interest rate risk than do direct United States government obligations of similar maturities. For purposes of this subsection, "interest rate risk" means market value changes due to changes in current interest rates.

(i) The director of investments shall not invest state moneys eligible for investment under subsection (a), in the municipal investment pool fund, created under K.S.A. 1997 Supp. 12-1677a, and amendments thereto.

(j) The director of investments shall not invest moneys in the pooled money investment portfolio in derivatives. As used in this subsection, "derivatives" means a financial contract whose value depends on the value of an underlying asset or index of asset values.

(k) Moneys and investments in the pooled money investment portfolio shall be invested and reinvested by the director of investments in accordance with investment policies developed, approved, published and updated on an annual basis by the board. Such investment policies shall include at a minimum guidelines which identify credit standards, eligible instruments, allowable maturity ranges, methods for valuing the portfolio, calculating earnings and yields and limits on portfolio concentration for each type of investment. Any changes in such investment policies shall be approved by the pooled money investment board. Such investment policies may specify the contents of reports, methods of crediting funds and accounts and other operating procedures.

(l) The board shall adopt rules and regulations to establish an overall percentage limitation on the investment of moneys in investments authorized under paragraph (3) of subsection (a), and

within such authorized investment, the board shall establish a percentage limitation on the investment in any single business entity.

Sec. 10. K.S.A. 75-4237 is hereby amended to read as follows: 75-4237. (a) The director of investments shall accept requests from banks interested in obtaining investment accounts of state moneys. Such requests may be submitted any business day and shall specify the dollar amount, maturity or maturity range and interest rate. Except as provided in subsection (c), if the interest rate bid by the bank is at or greater than the market rate determined by the director of investments in accordance with subsection (b), the director of investments is authorized to award the investment account to the bidding bank at the market rate. Awards of investment accounts pursuant to this section shall be subject to investment policies of the pooled money investment board. When multiple bids are received and are in excess of the amount available for investment that day for any maturity, awards shall be made available in ascending order from smallest to largest dollar amount bid, subject to investment policies of the board.

(b) The market rate shall be determined each business day by the director of investments, in accordance with any procedures established by the pooled money investment board. Subject to any policies of the board, the market rate shall reflect the highest rate at which state moneys can be invested on the open market in investments authorized by subsection (a) of K.S.A. 75-4209 and amendments thereto for equivalent maturities.

(c) Notwithstanding the provisions of this section, agricultural link deposits made pursuant to the provisions of sections 1 through 8, and amendments thereto, shall be at zero interest rate.

Sec. 11. K.S.A. 75-4209 and 75-4237 are hereby repealed.