

Approved: 3-20-01
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Sandy Praeger at 9:30 a.m. on March 13, 2001 in Room 234-N of the Capitol.

All members were present except:

Committee staff present: Dr. Bill Wolff, Kansas Legislative Research Department
Ken Wilke, Office of the Revisor of Statutes
JoAnn Bunten, Committee Secretary

Conferees appearing before the committee:

Dr. Bruce B. Morgan, Member, Kansas State Banking Board
Franklin W. Nelson, State Bank Commissioner
Daryl Craft, Legislative Chairman, Kansas Bankers Association Trust Division
Paul Davis, Kansas Bar Association Legislative Counsel

Others attending: See attached list.

Hearing on HB 2482 - Powers and duties of state banking board and bank commissioner

Dr. Bruce B. Morgan, Member, Kansas State Banking Board, testified before the Committee in support of **HB 2482** which would transfer additional responsibilities to the Bank Commissioner that are currently delegated to the State Banking Board. He noted that such responsibilities are mostly administrative in nature and not involved in policy decisions that require the review by the nine member State Banking Board. (Attachment 1)

Franklin W. Nelson, State Bank Commissioner, testified in support of the bill, and noted that his office and the State Banking Board had reviewed the statutes relating to powers and duties of the board, and **HB 2482** is the result of their comprehensive discussion which would delegate more administrative responsibilities to his office. (Attachment 2)

There were no opponents to the bill.

The Chair called the Committee's attention to comments by the Revisor at a previous meeting relating to merging language in **HB 2146** into **HB 2482**.

Senator Teichman made a motion to amend language in **HB 2146 into HB 2482**, seconded by Senator Brungardt. The motion carried.

Senator Corbin made a motion that the Committee recommend **HB 2482 as amended** favorable for passage, seconded by Senator Steineger. The motion carried.

Hearing on HB 2465 - Prudent investor rule

Daryl Craft, Legislative Chairman, Kansas Bankers Association Trust Division, testified in support of **HB 2465** which would make technical changes to the Uniform Prudent Investor Act as outlined in his written testimony. (Attachment 3) Committee discussion related to language in the bill clarifying the ability of the trustee to follow written directions.

Also providing testimony in support of the bill was Paul Davis, Kansas Bar Association Legislative Counsel. (Attachment 4) There were no opponents to the bill.

Senator Steineger made a motion that the Committee recommend **HB 2465** favorable for passage, seconded by Senator Teichman. The motion carried.

Approval of Minutes

Senator Brungardt made a motion to approve the Committee minutes of March 6, 7 and 8, seconded by Senator Teichman. The motion carried.

Adjournment

The meeting was adjourned at 10:00 a.m. The next meeting of the Committee is scheduled for March 14, 2001.

SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: 3-13-01

NAME	REPRESENTING
Bruce B. Morgan	STATE BANK BOMM
Bill New	State Banking Dept
Paul Davis	Kansas Bar Assn.
Robert Francisco	KGC
Daryl Craft	Ks Bankers Assn. Trust Assn
LARRY MAGILL	KAIA
Somey Allen	OSBC
RPB	Hew / Weir
Franklin W. Nelson	OSBC
Judi Stork	OSBC
Chuck Stones	K B IA
Kathy Olsen	Kc Bankers Assn.
Matt Goddard	HCSA
Julie Numrich	Federico Consulting

Remarks of Dr. Bruce B. Morgan, Member, Kansas State
Banking Board, at Senate Financial Institutions Committee,
on March 13, 2001.

Madam Chair and Members of the Committee, on behalf of the State Banking Board, I would like to thank you for allowing us to offer our comments on the House Bill No. 2482 related to the transfer of certain powers from the State Banking Board to the State Bank Commissioner and on House Bill No. 2146 related to general powers of banks. It is our understanding these two bills will be merged by your Committee upon recommendation of the Revisor.

My name is Bruce B. Morgan, and I am a banker and member of the State Banking Board. Joining me today is State Banking Board member Bill New, a banker, and we are representing the views of the Board.

We last met with Senators Praeger and Feliciano in 1999 when you were considering Senate Bill No. 260. The State Banking Board opposed that legislation and a copy of my testimony before the House Financial Institutions Committee is attached for reference on the issues of concern to the State Banking Board at that time. Since that time, legislation was passed making the State Bank Commissioner a full time position and adding the Consumer Affairs division.

In the 2000 Legislature, Senate Bill No. 439 was introduced and it was almost verbatim to Senate Bill No. 260. In the State Banking Board meeting of January, 2000, the Board unanimously adopted a motion to oppose the bill on the same grounds as in 1999. The Senate Financial Institutions Committee did not work the bill last year, but requested that the State Bank Commissioner report to the Legislature proposed changes in banking legislation. Since this bill affected the State Banking Board, the Commissioner requested input from the Board regarding proposals to be made to you.

The State Banking Board worked throughout 2000 in reviewing the proposed changes in legislation governing the powers assigned by the Legislature to the Board. The Board adopted a mission statement and reviewed all the laws relating to duties of the State Banking Board against this mission statement.

Senate Financial Inst. & Insurance
Date: 3-13-01
Attachment No. 1

MISSION STATEMENT

"The mission of the Kansas State Banking Board is to prudently, equitably, ethically, and efficiently administer all of its statutorily delegated powers and duties so as to promote the competitiveness, financial stability, safe and sound banking practices, protection of Kansas consumers, and public confidence in the state chartered banking industry."

House Bill No. 2482 is the culmination of that effort.

The State Banking Board supports House Bill No. 2482 and recommends its passage by this Committee.

In the opinion of the State Banking Board, House Bill No. 2482 shifts a number of duties to the State Banking Commissioner that are administrative in nature and not involved in policy decisions that require the review by the nine member State Banking Board (e.g. name changes, reduction of capital stock, relieving the appointment of a special deputy). These changes will improve the efficiency of the Office of State Bank Commissioner and streamline the regulatory process of the State Banking Department making administrative decisions on an expedited basis similar to national banks regulated by the Comptroller of Currency.

In addition, House Bill No. 2482 provides a more stream-lined review and approval process for new branches and relocations of well-capitalized banks that are not subject to regulatory action by allowing the State Bank Commissioner to approve such applications. This change will bring Kansas Banking laws more in line with national banking laws improving the parity of Kansas chartered banks with national banks. The decision approving or disapproving an application by the State Bank Commissioner on new branches or relocations can be appealed to the State Banking Board by the applicant or any adversely affect person.

Finally, House Bill No. 2482 repeals two areas of banking law related to interest rates and reserve ratios which the State Banking Board and State Bank Commissioner no longer influence.

In addition, the State Banking Board recommends the passage of House Bill No. 2146. This bill codifies a Special Order of the Commissioner related to general powers of banks and brings a number of banking powers to state chartered banks now enjoyed by national banks.

In summary, the State Banking Board recommends the adoption of House Bill No. 2482 and House Bill No. 2146. We believe these bills will strengthen the Office of State Bank Commissioner, preserves the policy and advisory role of the State Bank Board on issues of importance, and is in the public's interest. I would like to thank the Committee for allowing us to present these views and would welcome any questions.

State Banking Performance Summary FDIC-Insured Institutions

<i>(dollar figures in millions)</i>	Commercial Banks Kansas September 30, 2000			Commercial Banks Kansas September 30, 1999			Commercial Banks Kansas September 30, 1998		
	All Institutions	Assets less than \$100 million	Assets greater than \$100 million	All Institutions	Assets less than \$100 million	Assets greater than \$100 million	All Institutions	Assets less than \$100 million	Assets greater than \$100 million
Number of institutions reporting	376	305	71	389	323	66	398	333	65
Total employees (full-time equivalent)	13,662	4,848	8,814	13,225	5,204	8,021	13,252	5,347	7,905
AGGREGATE CONDITION AND INCOME DATA									
Net income (year-to-date)	383	110	273	307	108	199	314	114	200
Total assets	36,569	11,483	25,086	33,878	12,010	21,869	32,554	11,957	20,597
Earning assets	34,025	10,671	23,353	31,390	11,157	20,233	30,243	11,144	19,099
Total loans & leases	23,407	7,041	16,365	21,293	7,147	14,146	19,671	7,122	12,549
Other real estate owned	26	13	13	30	12	18	32	12	20
Total deposits	29,850	9,704	20,146	28,309	10,186	18,123	27,465	10,221	17,244
Equity capital	3,645	1,218	2,427	3,288	1,257	2,031	3,268	1,308	1,960
PERFORMANCE RATIOS (YTD, %)									
Yield on earning assets	8.40	8.23	8.48	7.92	7.80	7.99	8.30	8.11	8.42
Cost of funding earning assets	3.90	3.87	3.91	3.56	3.57	3.56	3.86	3.76	3.91
Net interest margin	4.50	4.36	4.56	4.35	4.22	4.43	4.45	4.35	4.51
Noninterest income to avg. earning assets	1.23	1.07	1.30	1.18	1.02	1.26	1.18	1.06	1.25
Noninterest expense to avg. earning assets	3.23	3.50	3.11	3.23	3.44	3.12	3.30	3.44	3.22
Net charge-offs to loans & leases	0.33	0.11	0.43	0.45	0.13	0.61	0.35	0.10	0.50
Credit-loss provision to net charge-offs	122.09	221.37	111.03	116.32	166.60	110.78	130.05	218.55	120.08
Net operating income to average assets	1.44	1.32	1.50	1.27	1.21	1.30	1.30	1.27	1.31
Retained earnings to average equity	7.36	5.93	8.09	5.88	4.78	6.56	7.39	5.51	8.66
Return on assets	1.42	1.30	1.48	1.22	1.22	1.22	1.31	1.28	1.32
Return on equity	14.68	12.50	15.79	12.61	11.58	13.24	13.35	12.01	14.24
Percent of unprofitable institutions	2.93	3.61		2.83	2.79	3.03	1.76	2.10	
Percent of institutions with earning gains	71.28	70.49	74.65	48.84	45.51	65.15	61.56	59.46	72.31
CONDITION RATIOS (%)									
Net loans and leases to assets	63.02	60.39	64.22	61.84	58.59	63.63	59.42	58.62	59.89
Loss allowance to:									
Loans and leases	1.54	1.51	1.55	1.60	1.54	1.63	1.66	1.58	1.71
Noncurrent loans and leases	193.88	164.43	209.62	188.38	145.28	219.38	200.17	163.81	226.50
Noncurrent loans & leases to total loans & leases	0.79	0.92	0.74	0.85	1.06	0.74	0.83	0.96	0.75
Nonperforming assets to assets	0.58	0.68	0.53	0.62	0.73	0.56	0.60	0.68	0.56
Core deposits to total liabilities	78.52	80.06	77.82	81.55	81.63	81.50	82.93	83.62	82.54
Equity capital to total assets	9.97	10.61	9.67	9.70	10.47	9.29	10.04	10.94	9.52
Core capital (leverage) ratio	9.67	10.55	9.27	9.43	10.36	8.91	9.38	10.43	8.77
Total capital to risk-weighted assets	14.65	17.07	13.65	14.75	17.26	13.51	15.35	17.62	14.11
Gross 1-4 family mortgages to gross assets	12.12	14.46	11.05	12.46	13.44	11.91	12.83	13.37	12.52
Gross real estate assets to gross assets	38.40	33.99	40.41	37.54	33.30	39.86	34.16	32.14	35.34

Source: Call Report and Thrift Financial Report:
Prepared by the FDIC-Division of Research and Statistics



KANSAS STATUTES AND REGULATIONS RELATING TO THE STATE BANKING BOARD

KANSAS STATUTES

1. K.S.A. 9-519 through 9-523 Bank holding companies
2. K.S.A. 9-532 through 9-541 Interstate banking
The banking board reviews any appeal of the Commissioner's determination of approval or denial for an interstate change of control.
3. K.S.A. 9-812 Change of bank name
The banking board approves the name change of a bank.
4. K.S.A. 9-901a Amount of capital of a bank or trust company
This statute outlines the minimum capital requirements for a new bank or trust company, which the banking board approves or denies.
5. K.S.A. 9-901b Minimum capital requirements
This section allows the commissioner, with banking board approval, to allow a bank to operate with capital levels less than those required by K.S.A. 9-901a.
6. K.S.A. 9-908 Issuance of preferred stock
The issuance of preferred stock by a bank or trust company must first be approved by the banking board.
7. K.S.A. 9-912 Reduction of surplus account
Before a bank or trust company can reduce their surplus account, the banking board must give approval.
8. K.S.A. 9-1101(21) Bank subsidiary for securities activities
The banking board must approve the establishment of a subsidiary which sells securities, issues and underwrites municipal bonds, operates mutual funds, or acts as broker-dealer.
9. K.S.A. 9-1101(24)(b)(iv) Bank owned life insurance
If a bank holds a life insurance policy for the express purpose of providing a deferred compensation benefit, and there is no liability that exist under that deferred compensation plan, the bank cannot continue to hold the life insurance policy without the express permission of the banking board.
10. K.S.A. 9-1101a Issuance of capital notes or debentures
Before a bank can issue capital notes or debentures, they must have the approval of the banking board.
11. K.S.A. 9-1111 Branch banking
The banking board must approve all branches, except those that result from the merger of two banks.
12. K.S.A. 9-1123 through 9-1127d Bank service corporations
A bank may not invest in certain types of service corporations without the prior approval of the banking board.

13. K.S.A. 9-1702 Examination of fiduciaries and affiliated organizations
14. K.S.A. 9-1713 Adoption of rules and regulations
All rules and regulations adopted by the Commissioner shall first be submitted to the banking board for their review and approval.
15. K.S.A. 9-1801 through 9-1803 Application for a certificate of authority
The banking board approves all new bank and trust company charters.
16. K.S.A. 9-1804 Change of location of a bank or trust company
Before a bank or trust company relocates their main office or branch, they must first receive approval of the banking board.
17. K.S.A. 9-1805 Removal of a bank or trust company officer or director
The banking board may remove an officer of a bank or trust company if they have been "dishonest, reckless or incompetent" in performing their duties.
18. K.S.A. 9-1806 Maximum interest rate
19. K.S.A. 9-1807 Issuance of an order to cease and desist
The banking board determines whether the issuance of an order to cease and desist, proposed by the bank commissioner, is appropriate. The C&D orders are usually issued when a bank is operating in an unsafe and unsound manner.
20. K.S.A. 9-1808 Approval of a bankers' bank
This section give the banking board the authority to grant a state charter for the purpose of establishing a bankers' bank.
21. K.S.A. 9-2106 Change of trust company name
The banking board approves the change of name of a trust company.
22. K.S.A. 74-3004 et. seq. State banking board
This statutes establishes the banking board and defines the requirements associated with serving on the board.

KANSAS ADMINISTRATIVE REGULATIONS

1. K.A.R. 17-16-1 through 17-16-9 Charter application guidelines
2. K.A.R. 17-19-1 through 17-19-4 Securities subsidiary application guidelines
3. K.A.R. 17-21-1 through 17-21-8 Bank holding companies; Application guidelines for the acquisition of a Kansas bank or bank holding company
4. K.A.R. 17-22-1 Application fees

Remarks of Dr. Bruce B. Morgan, Chairman, Kansas State Banking Board, at House Financial Institutions Committee, on March 17, 1999.

Mr. Chairman and Members of the Committee, on behalf of the State Banking Board, I would like to thank you for allowing us to offer our comments on the House Substitute for Senate Bill No. 260 related to the State Banking Board and proposal to transfer certain powers to the State Bank Commissioner.

My name is Bruce B. Morgan, and I am a banker appointed to the State Banking Board and this year serve as its Chairman. Bill E. New is also a member of the State Banking Board and joins me here today representing the views of the Board.

The State Banking Board is comprised of nine members appointed by the Governor and confirmed by the Senate. At the present time, the State Banking Board performs several duties assigned to it by the Kansas legislature in conjunction with the activities of the State Banking Department and the Office of State Bank Commissioner. The Board is made up of six bankers and three public members appointed from different political parties and different congressional districts to insure all areas of the state are fairly represented. Board members are appointed after due diligence by the Governor's office, are subjected to Senate confirmation hearings, and an extensive KBI background check.

The State Banking Board received copies of the proposed Senate Bill No. 260 at our February, 1999, meeting, and discussed it in our March, 1999, meeting. The State Banking Board unanimously adopted a motion to express to you our concerns about this bill prior to your working the bill, recommendation to the house, and your final vote.

The State Banking Board has a deep concern, as expressed by the vote of its members, that Senate Bill No. 260 transfers too much power to one person, the State Bank Commissioner, without supervision of an oversight board.

In the past two years, a great deal of discussion has taken place regarding the duties of the State Bank Commissioner and in fact this House has passed legislation regarding notice under the so-called "wild card" statute so you would be better informed about the activities of this office. The State Banking Board has strong reservations about Senate Bill No. 260 without further study and deliberation on your part.

The proposed Senate Bill No. 260 changes, amends, and repeals 41 laws affecting state banking. The bill contains over 60 provisions shifting duties from the State Banking Board to the State Banking Commissioner. The State Banking Board believes the bill is transferring excessive power to the State Banking Commissioner with little to no oversight.

In Attachment A, an exhibit given to members of the Legislature on the Duties of the State Banking Board, I have tried to "map" the specific KSA laws being changed, the bill's page number, and specific policy issues for your consideration.

The State Banking Board has no objection to seven of the proposed 27 shifts in duties from the Banking Board to the State Bank Commissioner.

The State Banking Board objections to Senate Bill No. 260 can be summarized in six policy areas:

1. Community and public input on new charter and branch applications;
2. Bank capital issues;
3. Appeal of State Bank Commissioner decisions;
4. Review of Proposed Rules and Regulations;
5. Establishment of securities subsidiaries;
6. Authority of State Banking Board to perform their duties.

Briefly, I will discuss each of these in the context of Attachment A.

Community and public input on new charter and branch applications: Present law allows for a public hearing to be held in the community if objections are filed on branch bank applications. The bill eliminates this process and only provides for input in Topeka before an application is finally approved or disapproved. Our representative democracy is founded on the principal that citizens can make their voice heard. The State Banking Board feels the public hearing provision should not be eliminated and is a useful tool to elicit public input on applications. (See Attachment A, items 1, 2, 3, 12)

Bank Capital Issues: A number of changes proposed relate to the State Banking Board review of changes in a bank's capital structure. Banking is a "public confidence" business. A bank's equity capital is to protect the "uninsured" depositor in the event of a banking crisis. It has been the experience of several present and prior State Banking Board members that we have advocated higher bank capital standards than staff. We feel these sections of Kansas banking law should not be changed. (See Attachment A, items 5, 6, 7, 11)

Appeal of State Bank Commissioner Decisions: Several provisions in the bill (items 21-25 in Attachment A) now provide for appeals of decisions of the State Bank Commissioner be made to the State Banking Board. The bill changes this procedure so that decisions of the State Bank Commissioner are "appealed to the Commissioner". How can an aggrieved party get a fair and impartial review of the decision by the person that made the decision?

Review of Rules and Regulations: The State Banking Department and State Bank Commissioner promulgate various rules and regulations impacting Kansas state banks. The present legislation requires these rules and regulations be reviewed and approved by the State Banking Board. In Senate Bill No. 260, the State Bank Commissioner only is granted the power to approve the rules and regulations. This is an example of lack of oversight by a Board representing both the industry and public members and vesting that power in one person. (Attachment A, item 19)

Establishment of Securities Subsidiaries: This is similar to approving a new charter, branch or trust company. In Kansas banking history, we have received and reviewed only one application to establish a securities subsidiary. In the future, as the lines become more "blurred" in financial services, we probably will have future applications and feel they should be reviewed under the same standards as new charters and branches. (Attachment A, item 16)

Authority of State Banking Board to Perform Their Duties: At the present time, the State Banking Board annually elects one of its nine members to be Chairman and the State Bank Commissioner serves as Secretary. This has worked for a number of years. The proposed Senate Bill No. 260 makes the State Bank Commissioner "permanent" Chairman of the State Banking Board. Also, the bill removes the State Banking Board from having access to all of the records in office of State Bank Commissioner, removes their ability to call a meeting, and removes their oversight from matters pertaining to the "conduct and welfare of the banking department". In a democracy, we have checks and balances; in an autocracy, we do not. These changes do not advance the cause of democracy for the citizens of Kansas. (Attachment A, item 8 & 10)

We support Senate Bill No. 240, with your amendments, and believe the office of State Bank Commissioner will be strengthened with its passage. We offer no comment on Senate Bill No. 271 because it addresses an administrative consolidation of two departments of state government and there are others better able to speak about these matters.

It is our understanding, regarding the State Banking Department, that the concern and discussion expressed by members of the Kansas Legislature the past two years have dealt with the power, authority, and decisions of the State Bank Commissioner and need for reform in the office with a full time bank commissioner. We support these reform efforts. We have heard no expression of support from the citizens of Kansas, elected representatives, or banks that it is in the State of Kansas' best efforts to create a "regulatory czar" in the office of State Bank Commissioner.

I would like to thank the Committee for allowing us to present these views and would welcome any questions.

DUTIES OF THE STATE BANKING BOARD

ATTACHMENT A

PRIOR TO 1999

KSA	DUTY	NO OBJECTION BY BANKING BOARD	CURRENTLY	SB 439 SB 260	AS PROPOSED UNDER SB 260	# of Appls. last 3 years	NOTES #1-#3
4	Approval of new bank and trust company charters		Banking Board	P 2 SEC 4	Banking Board	7	REMOVES PUBLIC HEARING IN COMMUNITY FOR PUBLIC INPUT
9-1111	Approval of branch banks		Banking Board	P 17 9(3)(s)(h)	Banking Board	72	
9-1604	Approval of relocation of a bank or trust company		Banking Board	P 12 9(8)(h)(i)	Banking Board	17	
9-812	Approval of change of bank or trust company name	OK	Banking Board	P 23 SEC 20 P 2 SEC 5	Commissioner	8	
9-904	Approval of the reduction of the capital stock of a bank		Banking Board	P 3 9 (b)	Commissioner	2	
9-908	Approval of the issuance of preferred stock by a bank		Banking Board	P 3 SEC 7	Commissioner	1	
9-912	Approval of the reduction of a bank's surplus account		Banking Board	P 4 SEC 8	Commissioner	9	
74-3004	Approval for a bank to continue to hold a life insurance policy for deferred employee compensation plans when no ability exists under the plan	OK	Banking Board	P 39 9 38	Commissioner	1	USURPS BOARD ABILITY TO PERFORM DUTIES
74-3004	COMMISSIONER AS CHAIRPERSON US SECRETARY		74-3005	P 38-39 9 36 & 37			USURPS BOARD AUTHORITY
9-1101a	Approval of the issuance of capital notes/debentures by a bank		Banking Board	P 10 SEC 12	Commissioner	0	
9-1714	Relieving a special deputy commissioner from their duties		Banking Board	P 24-25	Commissioner	0	REMOVES HEARING
9-1805	Removal of bank officer		Banking Board	P 27-30	Commissioner	0	
74-3004	ISSUANCE OF CEASE AND DESIST ORDERS		Banking Board	P 38 SEC 36	Commissioner	1	WHY?
9-173	ESTABLISHMENT OF A BANK SERVICE CORPORATION		Banking Board and Commissioner	P 74 (21)	Commissioner	1	
17	Determination of a bank's reserve ratio	OK	Banking Board and Commissioner		Commissioner	0	
9-1101	Establishment of maximum rates of interest on deposits	OK	Banking Board and Commissioner		Commissioner	0	
9-1127(b)	Approval of rules and regulations		Banking Board and Commissioner	P 24 SEC 23	Commissioner	2	
9-1127(b)	APPROVAL OF BANKER'S BANK INVESTMENT		Banking Board & Commissioner	P 12 (a)(b)(c)(d)	Commissioner	0	OUTRES #21-#25
21	Appointment of a special deputy		Commissioner		Commissioner	0	
9-1716	Issuance of an order to cease the declaration or payment of dividends		Commissioner	P 25 SEC 25	Commissioner	0	APPEAL OF COMMISSIONER'S DECISION TO COMMISSIONER NOT BANK BOARD
9-1713	Approval of acquisitions of Kansas banks by HCs		Commissioner	P 1 9 (b)	Commissioner	40	
9-1713	Approval of the change of control of a bank		Commissioner	P 1 9 (b)	Commissioner	14	
59-1709	Approval of contracting trustees; trust service desk; trust service offices; trust branch banks	OK	Commissioner	P 31-38	Commissioner	5	
7	ESTABLISHMENT OF BANK SERVICE CORP.	OK	BANKING BOARD & COMMISSIONER	P 14 9 (b)	COMMISSIONER	0	
26	The Banking Board makes the decision. The appeal is under the Act for Judicial Review and Civil Enforcement of Agency Actions (KJRA). *Appeal of the decision was to the banking board, is now to the Commissioner.						
9-1107	BORROWING FOR TEMPORARY PURPOSES	OK		P 10 SEC 12			

STATE OF KANSAS
BILL GRAVES
GOVERNOR

Franklin W. Nelson
Bank Commissioner

Judi M. Stork
Deputy Bank Commissioner



Sonya L. Allen
General Counsel

Kevin C. Glendening
*Deputy Commissioner
Consumer and Mortgage Lending*

OFFICE OF THE
STATE BANK COMMISSIONER

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

Tuesday, March 13, 2001

Madam Chair and Members of the Committee:

My name is Franklin W. Nelson. I am the Bank Commissioner for the State of Kansas. I am here today to present testimony in support of House Bill 2482.

The banking board and our office followed the suggestion of the Senate Financial Institutions and Insurance Committee of last year that banking board powers be reviewed and statutes that are outdated or obsolete be repealed. Since that time, the board, with the aid of my office, has been reviewing the statutes relating to banking board powers. Banking board members were very thorough in their review. The product contained in this bill is the culmination of 10-12 months of comprehensive discussions. I would like to compliment our nine member banking board for a job well done.

I strongly support House Bill 2482 and would request your favorable consideration of the bill.

Senate Financial Inst. & Insurance
Date: 3-13-01
Attachment No. 2



An Independent Trust Company

Testimony for the
Senate Financial Institutions and Insurance Committee
March 13, 2001

HB 2465

On behalf of the Kansas Bankers Association Trust Division, thank you for allowing me to present this testimony on HB 2465. My name is Daryl Craft, and I am the legislative chairman for the Trust Division.

Last session, the legislature passed and the governor signed what is known as the Uniform Prudent Investor Act. That legislation replaced an earlier version of the Act. The Act provides guidelines and protections for those who manage investments for others.

The Revisor chose to locate the 2000 revised Act in a different location in the Kansas Statutes Annotated. This bill has been introduced to correct a number of references to the old location, plus replace one paragraph that was left out of the Act last session. It also moves several statues relating to investments into Chapter 58. This bill was prepared at the request of the Revisor, and had input from the Kansas Banking Department, the Kansas Bar Association and the Kansas Bankers Association Trust Division.

We urge you to vote in favor of this bill.



**KANSAS BAR
ASSOCIATION**

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**LEGISLATIVE TESTIMONY
HOUSE BILL 2465**

MARCH 13, 2001

TO: SENATOR SANDY PRAEGER AND MEMBERS OF
THE SENATE FINANCIAL INSTITUTIONS AND
INSURANCE COMMITTEE

FROM: PAUL DAVIS, KBA LEGISLATIVE COUNSEL

Madam Chair and Members of the Committee:

Those of you who were here last session will recall that the legislature passed a new prudent investor act during the 2000 legislative session. This act replaced the Kansas act that was drafted by members of the Kansas Bar Association and Kansas Bankers Association in 1993 with a uniform act that was promulgated by the American Law Institute in its Restatement (Third) of Trusts (1992). The prudent investor rule, that is currently found at K.S.A. 17-5004 et seq., basically sets out guidelines for fiduciaries who manage and invest the assets of a trust.

Last year, the Kansas Bar Association originally opposed the enactment of the uniform prudent investor act because we felt that it would take away many of the Kansas-specific provisions that were written into the law in 1993. The Kansas Bankers Association and Kansas Trial Lawyers Association shared our concerns. Together, we were able to remedy this situation by proposing several amendments in this committee and in the Senate Financial Institutions and Insurance Committee that preserved several provisions of the law that was written in 1993. Our feeling was that these provisions were designed specifically to meet the

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needs of Kansas trustees and beneficiaries, and therefore should be preserved in the prudent investor rule.

However, we failed to propose amendment of one section that was in the prior law. We are requesting in House Bill 2465 that this section be added to the current law. The language, which is found on page 7 of the bill, lines 8-17, is identical to the language that was in the prior law. This language contains an important protection for trustees who are following the written instructions of a grantor. It expressly clarifies the ability of a trustee to follow the written directions of the grantor with respect to self-directed investments. This is an important practical step because many grantors often want to make a direction regarding certain trust assets that have been accepted by the trustee. The new law allows the act to be “expanded, restricted, or otherwise altered by the provisions of a trust” but does not appear to be broad enough to include the ability to use a separate written direction given to the trustee by a grantor.

The bill also moves the prudent investor rule to Chapter 58 of the Kansas Statutes Annotated. We believe that this is a more appropriate location for these statutes.

I thank you for the opportunity to present this testimony and on behalf of the Kansas Bar Association I request your favorable consideration of House Bill 2465.