

SESSION OF 2005

## SUPPLEMENTAL NOTE ON SENATE BILL NO. 104

As Amended by Senate Committee of the Whole

### **Brief\***

SB 104 concerns affiliated business entities of banks and trust companies. The bill provides the Bank Commissioner or designee be authorized to examine the fiduciary affairs of any officer or employee of any bank or trust company serving in a fiduciary capacity that may affect the safety and soundness of the company. The examination is to ascertain the relationship between the bank or trust company and the affiliate entity and the effect of such relationship on the bank or trust company. The bill removes the provision under existing law that allows the State Banking Board to authorize the Commissioner to conduct examinations related to the fiduciary affairs of any officer or employee of any bank or trust company.

### **Background**

The bill was requested by the Office of the State Bank Commissioner whose representative indicated that the number of affiliates has grown over the years, with more banks having a number of holding companies, which has necessitated the need for the Commissioner to have the ability to conduct routine examinations of the affiliates under the full control of the Commissioner. The representative further explained that SB 104 would allow the agency parity with 36 state banking departments, as well as federal regulators, and full authority to examine affiliates of banks to determine their effect on the safety and soundness of the institution. A State Banking Board member provided testimony in support of the bill.

The bill is opposed by the Kansas Bankers Association whose representative expressed concern about the removal of the Board's role

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

of approving the examination of affiliated business entities. The association provided an amendment to restore the language providing for the Board's approval of the examinations.

The Senate Committee of the Whole amendment assigns to "affiliate" its definition as provided in the Bank Holding Act of 1956, 12 U.S.C. § 1841.

The fiscal note prepared by the Division of the Budget on the introduced version of the bill indicates that passage of the bill would have no fiscal effect.