

MINUTES OF THE FINANCIAL INSTITUTIONS.

The meeting was called to order by Chairperson Ray Cox at 3:30 p.m. on March 5, 2001 in Room 527-S of the Capitol.

All members were present except: Representative Bill McCreary

Committee staff present: Dr. Bill Wolff, Legislative Research
Bruce Kinzie, Revisor's Office
Maggie Breen, Committee Secretary

Conferees appearing before the committee: Steve Rarrick, Deputy Attorney General
Senator Janis Lee
Sharlee Mason, American Association of Retired People
Elwaine Pomeroy, Kansas Collectors Association and
Kansas Credit Attorneys Association

Others attending: See Attached

Chairman Cox presented the committee minutes for February 19 and February 28 to be reviewed by the end of the meeting.

Chairman Cox opened the hearing on **SB 58** - Consumer protection; prohibiting obtaining or submitting check without consent.

Proponents:

Steve Rarrick, Deputy Attorney General, testified in favor of **SB 58**. The bill addresses a growing problem, that he sees in consumer protection, of people complaining that money is being taken out of their bank account without their authorization. In today's market, a person with your checking account number can do an electronic draft out of your account and the only way you would know is when you see it on your statement. Originally, the bill required written authorization. This was met with a great deal of concern, by legitimate businesses, with legitimate reasons, who are taking money out of consumers' accounts with their authorization. They were concerned that they would be subjected to some liability. The bill lists some exemptions and the written requirement was changed to language modeled after the slamming law. The burden of proving express authorization is on the supplier. They must have something that shows that the consumer said to take the money out of their account. He stated a concern with the wording for the second exemption on page one, line 18 thru 21. The bill also increases the penalties for violations. (**Attachment 1**)

Senator Janis Lee said that **SB 58** came about due to a situation in her family. She requested the legislation after discovering that a consumer signature wasn't required for a supplier to issue and receive payment from someone's bank account. **SB 58** in its current form has been thoroughly discussed and amended in the Senate. She is not thrilled about the current form of the bill, but believes that it has the potential to provide more protection than the current law does. (**Attachment 2**)

Sharlee Mason, American Association of Retired People, spoke in support of **SB 58**. They only support written authorization and **SB 58** because it starts off with authorization. (**Attachment 3**)

Elwaine Pomeroy, Kansas Collectors Association and Kansas Credit Attorneys Association, said they had

CONTINUATION SHEET

MINUTES OF THE FINANCIAL INSTITUTIONS at on March 5, 2001 in Room 527-S of the Capitol.

concerns with the initial version of the bill. He thanked Senator Lee for her willingness to spend time and effort to reach a compromised version of the bill. They didn't get their amendment on in committee but it was added on as a floor amendment. The wording of the floor amendment was patterned after the exemption in the telemarketing provisions. He said that all of the words in that amendment are not needed. He suggested an amendment that would strike the words "services rendered" and insert the word "or." They are interested in debt collection and he said that stopping after "existing debt" would satisfy their needs. (**Attachment 4**)

Chairman Cox asked Steve Rarrick for feedback concerning Mr. Pomeroy's proposed amendment. Steve said he'd probably be more comfortable if the wording was "or collection in connection with an existing debt" and the rest was deleted. He's stated that he wanted to clarify that he is not supporting the exemption, but if the committee decides to go with the exemption, that language would be much better than the present one. Chairman Cox asked Steve to get with Bruce Kinzie and prepare a balloon to change the language to that which would satisfy the interested parties.

Douglas Smith, Direct Marketing Association - Written testimony only (**Attachment 5**)

Chairman Cox closed the hearing on **SB 58** and said the committee would work it at a later time after a balloon has been prepared.

Chairman Cox said the committee would work the bills that were heard on February 28th.

SB 70 - Mortgages; entry of satisfaction thereof.

Representative Minor made a motion to pass SB 70 out favorably. Representative Humerickhouse seconded the motion. The motion carried.

SB 130 - Creation of limited purpose trust company.

Representative Gatewood made a motion to pass SB 130 out favorably. Representative Dreher seconded the motion. The motion passed.

SB 142 - Authorization of special orders by bank commissioner.

Representative Burroughs made a motion to amend the bill to include credit unions in the general definition of insured depository institutions, but to exclude them from the powers being granted to the Bank Commissioner. Representative Sharp seconded the motion. The motion to amend the bill failed.

Representative Dreher made a motion to pass SB 142 out favorably. Representative Minor seconded the motion. The motion passed.

Chairman Cox requested a motion on the committee minutes.

Representative Grant made a motion to approve committee minutes for February 19 and February 28 as presented. Representative Sharp seconded the motion. Without objection, the motion carried.

The meeting adjourned at 4:12 p.m.

The date of the next meeting will be determined later.