

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTIONSThe meeting was called to order by Representative Harold Dyck at  
Chairperson3:30 ~~am~~/p.m. on January 26, 1984 in room 527-S of the Capitol.All members were present except: Please note: The word "excused" should have been added to  
Rep. Ken Francisco's name in the January 24, 1984,  
minutes.Committee staff present: Bill Wolff, Research Department  
Myrta Anderson, Research Department  
Bruce Kinzie, Revisor of Statutes Office  
Mitchell Lousch, Intern  
Virginia Conard, Committee Secretary

## Conferees appearing before the committee:

Jim Turner, Kansas Savings & Loan  
Dr. Bill Curtis, Assistant Executive Director, Kansas Association  
of School Boards  
Ernie Mosher, League of Kansas Municipalities  
Fred Allen, Kansas Association of Counties  
John Torline, Finance Director, City of Newton  
Jim Maag, Kansas Bankers Association  
Brent McFall, City Manager, City of EmporiaFollowing Chairman Dyck's call to order of the committee, John Torline, Finance Director with the City of Newton, testified for HB2604. He requested that consideration be given to the amendment to the statutes through HB2604.Jim Turner of Kansas Savings & Loan appeared before the committee in support of HB2604. See Attachment I.Jim Maag, KBA, stated that the Kansas Bankers Association has no objection to HB2604.In the hearing on HB2126, Jim Turner stated his desire to present an amendment to HB2126. Chairman Dyck asked the committee's permission to have Mr. Turner offer the amendment at this juncture, pointing out that if the committee so moved on accepting Mr. Turner's amendment they would not be approving the bill nor would they be passing the bill out. Bruce Kinzie of the Revisor's office suggested that it be considered as a substitute bill. Mr. Turner pointed out that the amendment was merely deleting one word, "home" in addition to items incorporated in a 1983 bill.Representative Dorothy Nichols made the motion that the committee accept Mr. Turner's amendment as Substitute HB2126. Representative Larry Wilbert seconded the motion. Motion carried.Mr. Turner then presented his amendment, Substitute HB2126. See Attachment II.Bill Curtis of the Kansas Association of School Boards, testified that he supports the Substitute HB2126. See Attachment III.Ernie Mosher, Secretary for the League of Kansas Municipalities, gave his testimony in support of Substitute HB2126.Brent McFall, City Manager of the City of Emporia, testified to his support of Substitute HB2126, followed by Fred Allen of the Kansas Association of Counties who also stated his support of the substitute bill.In his testimony, Jim Maag of KBA strongly urged the committee to report the substitute bill out adversely. See Attachment IV.

Mr. Maag introduced Andy Chandler, president of the KBA Board, who testified to his real concern for how agriculture would be taken care of if funds were drawn out of the communities into the big cities as a result of the substitute bill.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTIONS,  
room 527-S, Statehouse, at 3:30 ~~xxx~~ p.m. on January 26, 1984.

At the close of the testimonies, Chairman Dyck introduced Marjean Davison of First Federal Savings Bank, Newton, and Diane Bartel, First Federal Savings Bank, Heston.

Regarding HB2639, which was heard on 1/24/84, Chairman Dyck took the Chair's prerogative by appointing a subcommittee to study HB2639 and to bring a report back to the full committee of its recommendations. He appointed three members of the summer's interim committee to the subcommittee. They are: Representative Kenneth King, chairman; Representative Ivan Sand, and Representative Ken Francisco.

Representative Bob Ott moved that the minutes of the January 24, 1984, meeting be approved. Representative Dorothy Nichols seconded the motion. Motion carried.

The meeting adjourned at 5:05 p.m.

The next meeting will be Tuesday, Jan. 31, 1984.



Attachment I

**KLSI** Kansas  
League of  
Savings  
Institutions

JAMES R. TURNER, President • Suite 612 • 700 Kansas Ave. • Topeka, KS 66603 • 913/232-8215

January 26, 1984

TO: HOUSE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS  
FROM: JIM TURNER  
RE: H.B. 2604 (REDEMPTION OF BONDS)

The Kansas League of Savings Institutions appreciates the opportunity to appear before the House Committee on Commercial and Financial Institutions in support of H.B. 2604. This proposal will allow municipal units to deposit funds in savings and loan associations for the redemption of municipal bonds. Under present law, such funds may be placed in savings associations but must be forwarded to the State Treasurer at least 21 days prior to the maturity of the bonds. Funds deposited in state or national banks can be forwarded to the State Treasurer three days prior to the maturity of the bonds.

This bill gives savings associations parity with banks in the deposit of funds used to redeem municipal bonds. Municipal treasurers who use savings and loan associations as depositories will gain an additional 18 days use of such funds before the money is forwarded to the State. We would ask that the committee give favorable consideration to the passage of House Bill 2604.

James R. Turner  
President

JRT:bw

Atch. I  
1/26/84

**KLSI** Kansas  
League of  
Savings  
Institutions

*A Hadment II*

JAMES R. TURNER, President • Suite 612 • 700 Kansas Ave. • Topeka, KS 66603 • 913/232-8215

January 26, 1984

TO: HOUSE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS  
FROM: JIM TURNER, KANSAS LEAGUE OF SAVINGS INSTITUTIONS  
RE: H.B. 2126 - LOCAL PUBLIC UNIT DEPOSITS

The Kansas League of Savings Institutions appreciates the opportunity to appear before the House Committee on Commercial and Financial Institutions to present amendments to H.B. 2126 which will expand the opportunity for local units -- cities, counties, and school districts to expand their investment options. The amendments will delete the restrictions in 1983 Supp. 9-1401 and 12-1675 that public funds may be placed only in the home offices of savings and loans and banks.

The issue before this committee is very clear. Shall local units of government have the option and the opportunity to place their idle funds as they analyze would be in the best interest of the unit that they represent or shall the monopoly over such deposits be continued by the commercial banking industry in this state?

We understand that questions have been raised regarding an agreement reached between the League and the Kansas Bankers Association in 1982. This proposal, which was enacted into law by the Legislature, limited public funds deposits to the home office of a bank or savings and loan.

We would point out that the League entered into this agreement in 1982 for the sake of expediency and because of limited options at that time. Further, we would note that local units were not consulted when the agreement was adopted. We feel it was a mistake not to consult with local units in this important area. In addition, there have been numerous changes in the financial community since that time with resulting mergers and reduced options for the local units as well as changing financial instruments, conditions, and methods of operation throughout both Kansas and the nation. Since the Kansas Legislature regularly changes laws and statutes to fit changing conditions and times, we fail to comprehend why local units should be excluded from having the maximum available earnings opportunity because of an agreement reached in 1982.

*Atch. II  
1/26/84*

We are aware that numerous "smokescreen" issues have been raised regarding this proposal. This is most unfortunate. It has been suggested that further restrictions be placed on the use of mortgages as collateral for pledging purposes. We have no objection to reviewing this area of the statute.....if appropriate. However, we would point out to the committee that acceptable collateral is the option of the local unit in accordance with K.S.A. 1983 Supp. 9-1402. Thus, a local unit is free to choose whether they will accept real estate mortgages as suitable collateral. To date, very few have taken this option. We have been advised by the Federal Home Loan Bank of Topeka, fiscal agent for the deposit of securities for many S&Ls, that over 80% of the collateral pledged and on deposit with them is in the form of negotiable securities and not mortgages.

It has also been suggested that local units should investigate the reserve, net worth, and financial stability of the financial institution. We would most certainly urge that this be the case.

It should be noted that while the newspapers gave their attention to the difficulties faced by savings and loan associations in 1981 and 1982, the focus of their attention in 1983 was on the commercial banking industry. A very recent issue of the Federal Financial Reports indicates a record forty eight FDIC banks failed in 1983 while only thirty three thrift institutions received assistance from the FSLIC. However, the most compelling argument that needs to be remembered is that public funds, by statute, are fully collateralized so as to protect the local unit. Thus, the combination of negotiable and acceptable securities, and federal insurance, would assure that the local unit is protected. It would appear that these arguments are being used primarily to distract from the main issue. That is, shall the local banker continue to make the investment decisions for the local units of government?

We would point out to the committee that as a result of recent mergers of savings institutions, seventy four savings and loan association branches in 1982 were forced to return 13.2 million dollars in public funds to the local units. Further, while the merger pattern appears to be stabilizing, we would point out that there are approximately fifteen fewer home office institutions since the original public funds pledging for S&Ls was enacted in 1982. In addition, an

additional smokescreen has been the argument that scrutiny should be paid to the investments in local communities..... particularly by branches. We would like to call to the committee's attention a specific example in this regard:

In 1982 Columbia Savings Association, Emporia, merged two western Kansas savings associations into their operation. As a result of the merger, they lost \$900 Thousand in public deposits from Sunflower Savings, Colby. However, since the merger, they have invested \$2.2 Million in mortgages in the Colby area. Also, in 1982, Columbia merged Reserve Savings Association in Oberlin. This resulted in the loss of \$270 Thousand in public funds; however, Columbia Savings has since continued their investment within the community loaning out \$628 Thousand in mortgages in the Oberlin area.

If one is to scrutinize the lending practices of savings and loan branches, it would appear essential that the same scrutiny be applied to the commercial banks since most Kansas banks have a substantial investment of their funds in Fed funds, Treasury obligations, and other instruments which do not remain in the local community.

In closing, we would like to emphasize that the intent of this measure is to allow local units to expand the number of financial institutions from which they can secure competitive bids for their idle funds. It does not mandate that they use a savings and loan institution. It should also be noted that the local unit has the sole discretion on the type and quality of security collateral that they will accept. For these reasons, we would urge the committee's adoption of the proposed amendments, and favorable consideration to reporting House Bill 2126, as amended, for passage.

James R. Turner  
President

JRT:bw

Encl.

AMENDMENTS TO 1983 H.B. 2126

1. Strike all of line 0018 and line 0019 before "and repealing" and insert the following:

"1983 Supp. 9-1401 and 12-1675"

2. Strike all of Section 1. and insert the following language:

K.S.A. 1983 Supp. 9-1401 is hereby amended to read as follows: 9-1401.

(a) The governing body of any municipal corporation or quasi-municipal corporation shall designate by official action recorded upon its minutes the state and national banks, trust companies, state and federally chartered savings and loan associations and federally chartered savings banks which shall serve as depositories of its funds and the officer and official having the custody of such funds shall not deposit such funds other than at such designated banks, trust companies, savings and loan associations and federally chartered savings banks. The state and national banks, trust companies, state and federally chartered savings and loan associations and federally chartered savings banks which have home offices located in the county or counties in which all or part of such municipal corporation or quasi-municipal corporation is located shall be designated as such official depositories if the municipal or quasi-municipal corporation can obtain satisfactory security therefor.

(b) Every officer or person depositing public funds shall deposit all such public funds coming into such officer or person's possession in their name and official title as such officer. If the governing body of the municipal corporation or quasi-municipal corporation fails to designate an official depository or depositories, the officer thereof having custody of its funds shall deposit such funds with one or more state or national banks, trust companies, state or federally chartered savings and loan associations or federally chartered savings banks which have home offices located in the county or counties in which all or part of such municipal corporation or quasi-municipal corporation is located if satisfactory security can be obtained therefor and if not then elsewhere, but upon so doing shall serve notice in writing on the governing body showing the names and locations of such banks, trust companies, savings and loan associations and federally chartered savings banks where such funds are deposited, and upon so doing the officer having custody of such funds shall not be liable for the loss of any portion thereof except for official misconduct or for the misappropriation of such funds by such officer.

(c) As used in this section and K.S.A. 9-1402, 9-1403 and 9-1405, and amendments thereto, to such sections, "municipal corporation or quasi-municipal corporation" includes each investing governmental unit under K.S.A. 12-1675 and amendments thereto.

3. Strike all of Section 2. and insert the following language:

K.S.A. 1983 Supp. 12-1675 is hereby amended to read as follows: 12-1675.

(a) The governing body of any county, city, township, school district, area vocational-technical school, community college, firemen's relief association, community mental health center, community facility for the

mentally retarded or any other governmental entity, unit or subdivision in the state of Kansas having authority to receive, hold and expend public moneys or funds funds may invest any moneys which are not immediately required for the purposes for which the moneys were collected or received, and the investment of which is not subject to or regulated by any other statute.

(b) Such moneys shall be invested only in:

(1) Temporary notes issued by such investing governmental unit;

(2) time deposit, open accounts or certificates of deposit: (A) In commercial banks or trust companies which have home offices located in such investing governmental unit; or (B) if the home office of no commercial bank or trust company is located in such investing governmental unit, then in commercial banks or trust companies which have home offices located in the county or counties in which all or part of such investing governmental unit is located; or (C) if such appropriate eligible commercial banks or trust companies cannot or will not make such deposits available to the investing governmental unit at interest rates equal to or greater than: (i) The average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks as fiscal agents of the United States, at its most recent public offering of such bills prior to the inception of such deposit contract; or (ii) the maximum rates such banks or trust companies may pay on such deposits under applicable law or regulation, whichever is lower, then in commercial banks or trust companies which have home offices located within the county or in the counties of the state of Kansas adjacent to the county or counties in which all or part of such investing governmental unit is located;

(3) in time certificates of deposit: (A) With savings and loan associations or federally chartered savings banks which have home offices located in such investing governmental unit; or (B) if the home office of no savings and loan association or federally chartered savings bank is located in such governmental unit, then with savings and loan associations or federally chartered savings banks which have home offices located in the county or counties in which all or part of such investing governmental unit is located; or (C) if such appropriate eligible savings and loan associations or federally chartered savings banks cannot or will not make such deposits available to the investing governmental unit at interest rates equal to or greater than: (i) The average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks, as fiscal agents of the United States, at its most recent public offering of such bills prior to the inception of such deposit contract; or (ii) the maximum rates such savings and loan associations or federally chartered savings banks may pay on such deposits under applicable law or regulation, whichever is lower, then with savings and loan associations or federally chartered savings banks which have home offices located within the county or in the counties of the state of Kansas adjacent to the county or counties in which all or part of such investing governmental unit is located;

(4) repurchase agreements with: (A) Commercial banks, trust companies, savings and loan associations or federally chartered savings banks which have home offices located in such investing governmental unit, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or (B) (i) if the home office of no commercial bank, trust company, savings and loan association or federally chartered savings bank is located in such investing governmental unit; or (ii) if no commercial bank, trust company, savings and loan association or federally chartered savings bank has a home office located in such investing governmental unit is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or higher than a rate equal to two percentage points below the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks, as fiscal agents of the United States, at its most recent offering of such bills prior to the inception of such contract, then such repurchase agreements may be entered into with commercial banks, trust companies, savings and loan associations or federally chartered savings banks which have home offices located in the county or counties in which all or part of such investing governmental unit is located; or (C) if no bank, trust company, savings and loan association or federally chartered savings bank which has its home an office located in such county or counties is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or higher than a rate equal to two percentage points below the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks, as fiscal agents of the United States, at its most recent offering of such bills prior to the inception of such contract then such repurchase agreements may be entered into with commercial banks, trust companies, savings and loan associations or federally chartered savings banks which have home offices located in the state of Kansas; or

(5) United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding six months.

(c) The investment authorized in clause (5) of subsection (b) shall be utilized only if the appropriate eligible commercial banks or trust companies, which have home offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such bank or trust company has a home office which is located within such governmental unit, or the appropriate eligible savings and loan associations or federally chartered savings banks, which have home offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such savings and loan association or federally chartered savings bank has a home office which is located within such governmental unit, cannot or will not make the investments authorized in clause (2) or clause (3) of subsection (b) available to the investing governmental unit at interest rates equal to or greater than: (A) The average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks as fiscal agents of the United States at its most recent public offering of such bills prior to the inception of such deposit contract; of (B) the maximum rates such commercial banks, trust com-

panies, savings and loan associations or federally chartered savings bank may pay on the investments authorized in clause (2) or clause (3) of subsection (b) under applicable law or regulations, whichever is lower.

4. Strike all of Section 3.
5. Strike all of section 4.
6. Strike all of Section 5.
7. Strike all of Section 6.
8. Strike all of Section 7.
9. Strike all of Section 8.
10. Strike all of Section 9 and renumber as Section 3 and insert the following:  

"K.S.A. 1983 Supp. 9-1401 and 12-1675 are hereby repealed."
11. Renumber Section 10 as Section 4.

which have home offices located in the county or counties in which all or part of such municipal corporation or quasi-municipal corporation is located if satisfactory security can be obtained therefor and if not then elsewhere, but upon so doing shall serve notice in writing on the governing body showing the names and locations of such banks, trust companies, savings and loan associations and federally chartered savings banks where such funds are deposited, and upon so doing the officer having custody of such funds shall not be liable for the loss of any portion thereof except for official misconduct or for the misappropriation of such funds by such officer.

(c) As used in this section and K.S.A. 9-1402, 9-1403 and 9-1405, and amendments thereto, to such sections, "municipal corporation or quasi-municipal corporation" includes each investing governmental unit under K.S.A. 12-1675 and amendments thereto.

History: L. 1947, ch. 102, § 63; L. 1957, ch. 74, § 2; L. 1967, ch. 447, § 30; L. 1972, ch. 35, § 1; L. 1982, ch. 52, § 1; L. 1983, ch. 47, § 2; July 1.

**9-1402. Securities for deposits of public funds; expenses; valuation.** (a) Before any deposit of public moneys or funds shall be made by any municipal corporation or quasi-municipal corporation of the state of Kansas with any state or national bank, trust company, state or federally chartered savings and loan association or federally chartered savings bank, such municipal or quasi-municipal corporation shall obtain security for such deposit in one of the following manners prescribed by this section.

(b) Such bank, trust company, savings and loan association or federally chartered savings bank may give to the municipal corporation or quasi-municipal corporation a personal bond in double the amount which may be on deposit at any given time.

(c) Such bank, trust company, savings and loan association or federally chartered savings bank may give a corporate surety bond of some surety corporation authorized to do business in this state, which bond shall be in an amount equal to the public moneys or funds on deposit at any given time and such bond shall be conditioned that such deposit shall be paid promptly on the order of the municipal corporation or

quasi-municipal corporation making such deposits.

(d) Any state or national bank, trust company, state or federally chartered savings and loan association or federally chartered savings bank may deposit, maintain, pledge and assign for the benefit of the governing body of the municipal corporation or quasi-municipal corporation in the manner provided in this act, securities the market value of which is equal to no less than 70% of the total deposits at any given time, and such securities shall consist of:

(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 United States sponsored corporations which under federal law may be accepted as security for public funds;

(2) bonds of any municipal corporation or quasi-municipal corporation of the state of Kansas which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America;

(3) bonds of the state of Kansas;

(4) general obligation bonds of any municipal corporation or quasi-municipal corporation of the state of Kansas;

(5) revenue bonds of any municipal corporation or quasi-municipal corporation of the state of Kansas if approved by the state bank commissioner in the case of banks and by the savings and loan commissioner in the case of savings and loan associations or federally chartered savings banks;

(6) negotiable promissory notes which are not in default together with first lien real estate mortgages on real estate located within the state of Kansas securing payment of such notes;

(7) temporary notes of any municipal corporation or quasi-municipal corporation of the state of Kansas which are general obligations of the municipal or quasi-municipal corporation issuing the same;

(8) warrants of any municipal corporation or quasi-municipal corporation of the state of Kansas the issuance of which is authorized by the state board of tax appeals

and which are payable from the proceeds of a mandatory tax levy;

(9) bonds of either a Kansas not-for-profit corporation or of a local housing authority that are rated at least Aa by Moody's Investors Service or AA by Standard & Poor's Corp.;

(10) bonds issued pursuant to K.S.A. 12-1740 *et seq.*, and amendments thereto, that are rated at least MIG-1 or Aa by Moody's Investors Service or AA by Standard & Poor's Corp.;

(11) notes of a Kansas not-for-profit corporation that are issued to provide only the interim funds for a mortgage loan that is insured by the federal housing administration.

(e) No state or national bank, trust company, state or federally chartered savings and loan association or federally chartered savings bank may deposit and maintain for the benefit of the governing body of a municipal or quasi-municipal corporation of the state of Kansas, any securities which consist of:

(1) Bonds secured by revenues of a utility which has been in operation for less than three years; or

(2) bonds issued under K.S.A. 12-1740 *et seq.*, and amendments thereto, unless such bonds have been refunded in advance of their maturity as provided in subsection (d) or such bonds are rated at least Aa by Moody's Investors Service or AA by Standard & Poor's Corp.

(f) Whenever a bond is authorized to be pledged as a security under this section, such bond shall be accepted as a security if (1) in the case of a certificated bond, it is assigned, delivered or pledged to the holder of the deposit for security; (2) in the case of an uncertificated bond, registration of a pledge of the bond is authorized by the system and the pledge of the uncertificated bond is registered; or (3) in a form approved by the attorney general, which assures the availability of the bond proceeds pledged as a security for public deposits.

(g) Any state or national bank, trust company, state or federally chartered savings and loan association or federally chartered savings bank which has agreed to pay a rate of interest upon moneys deposited pursuant to K.S.A. 12-1675, and any amendments thereto, greater than the average yield before taxes received on ninety-one

day United States treasury bills as determined by the federal reserve banks as fiscal agents of the United States at its most recent public offering of such bills prior to the inception of such deposit contract, and depositing, pledging and assigning securities to secure payment of such deposit, shall deposit and maintain for the benefit of the governing body of the municipal corporation or quasi-municipal corporation, in the manner as provided in this act, securities of a type described in this section market value of which is equal to no less than 100% of such deposit.

(h) Any expense incurred in connection with granting approval of revenue bonds shall be paid by the applicant for approval.

(i) All negotiable promissory notes secured by first lien mortgages on real estate pledged and assigned as security shall be valued pursuant to rules and regulations which have been adopted by both the state bank commissioner and the savings and loan commissioner after having first being submitted to and approved by both the state banking board under K.S.A. 9-1713 and amendments thereto and the savings and loan board. Such rules and regulations shall be published in only one place in the Kansas administrative regulations as directed by the state rules and regulations board. All such notes shall be approved by the governing body of such municipal corporation or quasi-municipal corporation before the same shall be accepted as security. Negotiable promissory notes secured by first lien mortgages on real estate shall be taken at their value for not more than 75% of the security required under the provisions of this act.

History: L. 1947, ch. 102, § 64; L. 1965, ch. 76, § 1; L. 1968, ch. 236, § 1; L. 1970, ch. 63, § 1; L. 1973, ch. 48, § 1; L. 1976, ch. 79, § 1; L. 1978, ch. 45, § 1; L. 1980, ch. 47, § 1; L. 1982, ch. 52, § 2; L. 1983, ch. 49, § 17; L. 1983, ch. 47, § 3; L. 1983, ch. 49, § 18; July 1.

**9-1403.** Same; exemption during peak deposits. (a) During the periods of peak deposits occurring at tax paying time and tax distributing time and continuing for a period of not to exceed 60 continuous days at any given time and not to exceed 120 days in any calendar year the amount of security for the deposit of public moneys as required under K.S.A. 9-1402 and amendments

KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS



5401 S. W. 7th Avenue Topeka, Kansas 66606  
913-273-3600

Testimony on H.B. 2126

by

Bill Curtis, Assistant Executive Director  
Kansas Association of School Boards

before the  
Commercial and Financial Institutions Committee  
January 26, 1984

Mr. Chairman and members of the Committee, we appreciate the opportunity to appear before you on behalf of the 300 member boards of education of the Kansas Association of School Boards. We appear today in support of H.B. 2126 as amended. In 1982 the Delegate Assembly of the Kansas Association of School Boards adopted a resolution which would support legislation that restores to Kansas school boards the option to invest district funds in branch offices of Kansas savings and loan institutions and detached facilities of Kansas banks. That resolution was re-stated this past November and adopted by the Delegate Assembly as a formal policy.

Under current law, a number of school boards find they have little choice when deciding where they may invest idle funds. As a result, the interest rate received by the school district may not be as high as it could be. If H.B. 2126 were passed, it would provide more competition for the investment of school district funds. If competition is increased, there is a greater likelihood that the return on the investment will be more.

KASB believes that H.B. 2126 is even more important considering the probability that S.B. 503 will pass this session. S.B. 503 changes the distribution dates of

*A Hachment III*

*Ach. III  
1/26/84*

state funds to school districts. It is estimated that the fiscal impact of S.B. 503 upon school districts in Kansas may be as high as \$2.8 million in lost interest income. Therefore, if school districts have less money to invest, it follows that they need a higher rate of return on the funds that are available to invest. We believe that H.B. 2126 as amended would provide that higher rate of return. We urge your support of this measure. Thank you for your consideration.

HOUSE COMMITTEE ON  
COMMERCIAL AND FINANCIAL  
INSTITUTIONS

TESTIMONY ON HB 2126

BY  
KANSAS BANKERS ASSOCIATION

JANUARY 26, 1984



The KANSAS BANKERS ASSOCIATION  
A Full Service Banking Association

January 26, 1984

TO: House Committee on Commercial and Financial Institutions

RE: HB 2126

Mr. Chairman and members of the committee:

Once again, we appreciate the opportunity to appear before this committee to discuss legislation relating to the investment of public monies by local units of government. This is an issue which has a far ranging impact on Kansas taxpayers and the economy of our state.

We presented to the committee during the 1983 session in our testimony on HB 2126 the background which lead to the passage by the 1982 session of the Kansas Legislature of Substitute for HB 2139 which made major amendments to the statutes relating to the investment of local public funds. We pointed out that the provisions of that legislation were the results of years of negotiations between the banking and S&L industries and that Kansas banks were willing to make major concessions in the existing law to affect a compromise acceptable to both industries, local units of government and the Kansas legislature. As we further pointed out in last year's testimony, the S&L industry interpreted that compromise to be of a rather temporary nature and thus, requested in HB 2126 that the branch offices of S&Ls be accorded the authority to take deposits of local units of government.

We further noted in our testimony last year that by granting savings and loan associations the authority to receive active accounts of local units as well as idle funds accounts that it did expand for local units of government the number of home offices of S&Ls where they could place their active funds. K.S.A. 9-1401 states that local units of government may place demand deposit (active accounts) in the home offices of banks or S&Ls located within the county or counties where the local unit is located. This differs sharply from the provisions of K.S.A. 12-1675 which states that local units may deposit idle funds (those monies which are not immediately required for the purposes for which they were collected or received) only in the home offices of banks or saving and loan associations which are located within the boundaries of the local unit. Thus, cities, most school districts and townships in most counties throughout Kansas have more than one financial institution where they can deposit their active accounts even though there may be only one home office of a financial institution within the boundaries of their unit.

The difference in the provisions of K.S.A. 9-1401 and K.S.A. 12-1675 as to the locations where local units may deposit their funds became even more significant with the issuance of Attorney General Opinion 83-88 on June 13, 1983. In that opinion, the Attorney General ruled that NOW accounts, Super NOW accounts, and Money Market Deposit accounts may be considered as "active" funds by a local unit of government. Since both the Super NOW and Money Market Deposit accounts are deposit instruments which have no interest rate ceiling, they are both accounts which can lend themselves to competitive bidding by the local units of government.

It should further be noted that the designation of whether monies deposited by local units shall be considered "active" or "idle" is made exclusively by the local governmental unit. Thus, it is possible for the local unit, if it so desires, to place nearly all of its available funds in either of these "active" accounts and by doing so expand, in most instances, the number of institutions which would be available to bid on the monies.

The Attorney General's Opinion, we believe, greatly diminishes the argument that there is a lack of competitive bidding opportunity for local units of government. Statistics show that due to the Attorney General's ruling practically all school districts in the state have access to more than one financial institution which could bid for that school district's deposits. In most counties, towns and townships also now have access to more financial institutions where they can place their monies at a competitive interest rate.

It should also be kept in mind that competitive bidding for local funds is a two-edged sword. Some financial institutions may well be tempted to bid a higher figure than reasonable profit will justify in order to build total assets and any increase in rates paid on time deposits obviously increases the cost of money. In turn, this increase in the cost of money adversely affects the customers of the bank or S&L in the form of higher loan rates. Thus, the very taxpayers whose dollars are being invested at a highly bid rate become the penalized borrowers of that financial institutions.

The Kansas Bankers Association and the banking industry did not object in 1983 to the expansion of the S&Ls authority to take active fund accounts, but we did oppose and we still strongly oppose their recommendation that the branch offices of savings and loan associations be allowed to take public funds deposits. As the accompanying maps show, many of the savings and loan associations in Kansas have several branch offices located in counties throughout the state. Adoption of the S&L recommendation that these branches have the authority to take unlimited amounts of local public funds deposits would mean that these S&Ls would have access to the deposits of literally hundreds of local units of government throughout the state beyond the county where the home offices are located. For

example, Capitol Federal Savings of Topeka, Anchor Savings of Kansas City, Peoples Heritage Savings of Marysville, American Savings of Wichita, and MidKansas Federal Savings of Wichita would each have access to the deposits of well over 100 additional local units of government. Conversely passage of this legislation would not allow any Kansas bank access to the deposits any additional local units of government whatsoever. It is, therefore, difficult to understand how the passage of such legislation would create a more equitable system for the deposit of local public funds.

We also believe that the committee should consider the impact of the passage of such legislation on the economic structure of our state. As we have pointed out in previous testimony the banks of Kansas have historically provided the necessary capital for Kansas business, industry and agriculture as well as consumer credit. Whereas, the activities of the savings and loan industry have been traditionally limited to the area of real estate lending. Despite the granting of additional authority by the Federal Congress in 1982, there is little evidence that the S&L industry in Kansas is planning to diversify its loan base. Therefore, we believe it is important that the members of the legislature understand that to shift public funds from banks to S&Ls in significant amounts would reduce the available capital to serve the needs of Kansas commerce, industry and agriculture.

Recent statistics in the American Banker show that among the states where there are over \$1 billion in farm loans Kansas ranks number one among all states in the percent of total farm loans held by banks. The national average is 21% while Kansas banks have 31% of the current farm loans in the state. We believe this is significant proof that Kansas banks have continued to serve the community well where the tax dollars for local units of government have been deposited.

In past testimony we have also pointed out the positive impact which the pledging of municipal bonds by Kansas banks on local funds has had on the Kansas municipal bond market. As committee members are aware, Kansas law requires that public funds must be secured from 70% to 100% of the deposits (after FDIC coverage) in eligible securities. Kansas banks have historically relied on U. S. securities and Kansas general obligation municipal bonds for these pledging purposes. Kansas banks held over \$2 billion in state and municipal obligations in 1982. The safety and liquidity of municipal bonds and U. S. securities for pledging as compared to use of real estate mortgages is another factor which we believe local officials should weigh heavily when considering where they will deposit taxpayers money.

In conclusion, we would only re-emphasize that major compromises were reached in the investment laws less than two years and the banking industry believed, as we assumed most legislators did, that no

Committee on Commercial and Financial Institutions

January 26, 1984

Page Four

additional major changes in local funds investment practices would be needed unless the legislature deemed that the system was not functioning properly. We believe that history has shown our investment laws in Kansas to be very sound and in the best interest of the local units of government and the Kansas taxpayers. It is a system which has protected the taxpayers' dollars without the slightest hint of scandal and provided a justifiable rate of return on those dollars. These deposits have provided some of the very necessary capital to keep the economy of Kansas business, industry and agriculture moving over the years and to implement the changes in HB 2126 would not only create a high inequitable deposit system but also would have an adverse effect on the overall economy of our state.

We thank you, Mr. Chairman and members of the committee, for this opportunity to discuss the ramifications of HB 2126 and we strongly urge the committee to report the bill adversely.

James S. Maag  
Director of Research

February 9, 1982

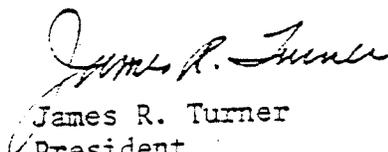
TO: House Committee on Pensions and Investments

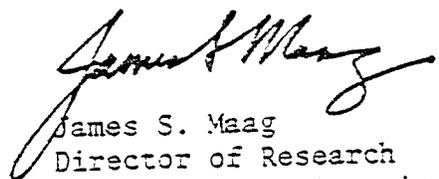
RE: Local Public Funds

Representatives of the Kansas Bankers Association and the Kansas Savings and Loan League have agreed to the following major policy positions to be included in legislation on the investment of local public funds:

- (1) Banks and S&Ls may accept unlimited amounts of public funds of any local unit of government wherein the home office of the bank or S&L is located;
- (2) No S&L branch or detached facility of a bank may accept any local public funds;
- (3) Rules and regulations governing the methods of valuing negotiable promissory notes secured by first lien mortgages on real estate to be used for pledging purposes shall be promulgated jointly by the S&L Commissioner and the Bank Commissioner and approved by both the State S&L Board and the State Banking Board;
- (4) Negotiable promissory notes secured by first lien mortgages on real estate shall be taken at their value for not more than three-fourths of the security required for local public funds;
- (5) Reference to investment of local public funds in S&Ls, as contained in K.S.A. 17-5002 shall be retained;
- (6) All other policy issues are agreed to as presented in the bill drafts placed before the Committee by the KBA at the hearing on February 2, 1982.

Mr. Chairman, we request that the committee have a bill drafted which incorporates these policy decisions and we further request that the committee then give favorable consideration to such legislation.

  
James R. Turner  
President  
Kansas Savings & Loan League

  
James S. Maag  
Director of Research  
Kansas Bankers Association



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

June 13, 1983

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 83- 88

Merle R. Bolton  
Commissioner of Education  
State Department of Education  
120 East 10th Street  
Topeka, Kansas 66612

Re: Cities and Municipalities -- Investment of Public  
Monies -- Active Versus Idle Funds; Deposits in  
Interest-Bearing Demand Accounts

Banks and Banking -- Banking Code; Deposit of  
Public Moneys -- Active Versus Idle Funds; Deposits  
in Interest-Bearing Demand Accounts

Synopsis: K.S.A. 12-1675, as amended, sets forth the ways  
in which certain governing bodies, including  
school districts and community colleges, may in-  
vest moneys which are not immediately required for  
the purposes for which they were collected or re-  
ceived. Such "idle funds" may only be invested  
in the five ways set out at subsection (b). Active  
funds, being those which the governing body makes  
immediate and regular use, are not subject to the  
restrictions of K.S.A. 12-1675, as amended. Per-  
missible accounts for active funds include check-  
ing accounts, demand deposit accounts, negotiable  
order of withdrawal (NOW) accounts, savings ac-  
counts, and money market deposit accounts, all of  
which have no minimum maturity and allow with-  
drawals on demand with no penalty. Cited herein:  
K.S.A. 9-701, as amended by 1983 Senate Bill No.  
64, K.S.A. 9-1401 and K.S.A. 12-1675, both as  
amended by 1983 House Bill No. 2439 and 1983 Sub-  
stitute for House Bill No. 2139, P.L. 97-320, 12  
U.S.C.A. §3503, 12 C.F.R. §1204.122.

\*

\*

\*

Dear Mr. Bolton:

As Commissioner of Education for the State of Kansas, you request our opinion on a question concerning the permissible ways in which school districts and community colleges may deposit moneys which are currently being drawn upon. Specifically, you inquire whether such entities may place public funds in the money market deposit accounts created as a result of Public Law 97-320, which was passed by the United States Congress last year. Popularly known as the Garn-St.Germain Act, one section of the law amends 12 U.S.C.A. §3503 so as to mandate the creation of money market deposit accounts which have no minimum maturity and which allow up to six preauthorized transfers to other accounts each month. In view of existing Kansas statutes following the 1983 legislative session, you wish to know if such accounts represent a new option for school districts and community colleges.

As you note in your letter, this office has recognized for several years the difference between the investment of moneys by a governing body which are not immediately needed under K.S.A. 12-1675, as amended, and the deposit of funds in accounts which are drawn upon on a regular basis to meet immediate needs. In Attorney General Opinion No. 75-448, a city planned to use a savings account in connection with a non-interest bearing checking account. Although enough money would be kept in the checking account to meet the minimum balance requirements of the bank, anything over that would automatically be transferred to the savings account, and would accordingly draw interest. When demands were made on the checking account, funds would be automatically transferred back from the savings account. Although the opinion concluded that this arrangement was clearly done for the purpose of generating income from the city's funds, K.S.A. 12-1675 was found not applicable, in that no idle funds were involved, i.e., money "not immediately required for the purposes for which [it was] collected or received." Attorney General Opinion No. 76-212, written in response to an inquiry from you, broadened the scope of the earlier opinion to include school districts and community colleges.

We note that, in addition to money market deposit accounts, neither checking or savings accounts are listed as permissible investments by K.S.A. 12-1675, as amended. The five methods to which a governing body is limited by that statute include: the governing body's own temporary notes; time deposit, open accounts or certificates of deposit; time certificates of deposit; repurchase agreements; and United States treasury bills or notes. Although the statute was amended twice during the 1983 legislative session (House

Bill No. 2439, Substitute for House Bill No. 2139), this list remains essentially the same, despite certain qualifications as to when and where certain of the investments can be made.

In our opinion, a clear distinction exists between the methods of investment set out in the above statute and a checking or savings account set up in an authorized institution pursuant to K.S.A. 9-1401, also as amended by the aforementioned 1983 House Bills. As was previously concluded by this office, the period for which the funds are unavailable for use determines whether they are active or idle. Each of the investment methods contained in K.S.A. 12-1675(b), as amended, has features which limit accessibility to the funds placed therein. Temporary notes, repurchase agreements and treasury bills and notes all have fixed periods for which the funds must be invested. Depending on the instrument, this period can range from one day to over six months. Time deposit, open accounts and time certificates of deposit, as defined by K.S.A. 9-701, as amended by 1983 Senate Bill No. 64, also provide that, should withdrawal be made prior to maturity, an interest penalty will be imposed.

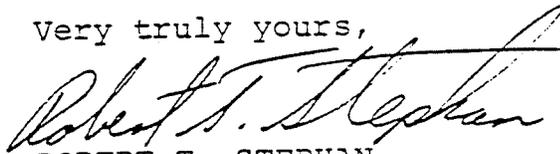
In obvious contrast are savings accounts and checking accounts, demand deposit accounts and negotiable order of withdrawal (NOW) accounts. These latter, the so-called NOW and Super NOW accounts, earn interest, yet are payable in full without penalty, and have no minimum maturity date. A governing body thus has constant and immediate access to money in such accounts, a fact which has been seen as significant by judicial decisions and legal authorities. Andrew v. Union Savings Bank & Trust Co., 270 N.W. 466, Jones v. O'Brien, 235 N.W. 655 (S.D. 1931), Owen v. Anderson, 186 S.E. 864 (Ga. 1936), 63 Am.Jur.2d, Public Funds §10, p. 404 (1972). In each of these cases, demand accounts were found to be deposits, rather than investments, under the particular statute or statutes at issue.

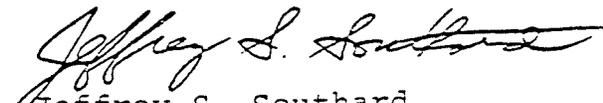
Various features of the money market deposit account support characterization of it as a deposit for active funds. Section 327 of the Garn-St.Germain Act amended Section 204 of the Depository Institutions Deregulation Act of 1980 (12 U.S.C. §3503) to authorize the creation of a new class of accounts that were to be directly equivalent to and competitive with money market mutual funds. In that no minimum maturity would be required, there are no penalties for early withdrawal. Further, up to six automatic or third-party transfers could be made each month. As more fully set out at 12 C.F.R. §1204.122, the administrative regulations set a minimum balance of \$2,500 for the payment of money market rates, and establish no limits on either the interest which may be paid (if the balance is over \$2,500) or the number of

transfers which may be made in person. Although a financial institution offering the account can require notice of up to 7 days for a withdrawal, this is optional and is the same limit as already exists for savings accounts and NOW accounts. Accordingly, it is our opinion that a money market deposit account should be considered an appropriate deposit of active funds and not as an investment of idle funds under K.S.A. 12-1675, as amended.

In conclusion, K.S.A. 12-1675, as amended, sets forth the ways in which certain governing bodies, including school districts and community colleges, may invest moneys which are not immediately required for the purposes for which they were collected or received. Such "idle funds" may only be invested in the five ways set out at subsection (b). Active funds, being those which the governing body makes immediate and regular use, are not subject to the restrictions of K.S.A. 12-1675, as amended. Permissible accounts for active funds include checking accounts, demand deposit accounts, negotiable order of withdrawal (NOW) accounts, savings accounts, and money market deposit accounts, all of which have no minimum maturity and allow withdrawals on demand with no penalty.

Very truly yours,

  
ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS

  
Jeffrey S. Southard  
Assistant Attorney General

RTS:BJS:JSS:hle

AGRICULTURAL LOAN TOTALS

January 1, 1983

State	Non-R E Loans Held by Banks (millions)	R E Loans Held by Banks (millions)	Total Farm Loans Held by Banks (millions)	State*** Total (millions)	Bank %
KANSAS	\$2,224 (56%)*	\$211 (06%)**	\$2,434	\$7,809	31%
NEBRASKA	2,863 (49%)	115 (03%)	2,977	10,102	29%
MISSOURI	1,385 (51%)	559 (14%)	1,943	6,595	29%
OKLAHOMA	1,255 (47%)	228 (08%)	1,483	5,576	28%
CALIFORNIA	3,762 (58%)	532 (06%)	4,294	15,112	28%
ILLINOIS	2,379 (54%)	537 (08%)	2,916	10,781	27%
KENTUCKY	612 (40%)	409 (18%)	1,020	3,831	27%
TEXAS	2,552 (43%)	556 (09%)	3,107	11,998	26%
SOUTH DAKOTA	1,266 (44%)	50 (02%)	1,316	4,974	26%
IOWA	3,766 (51%)	343 (04%)	4,108	16,121	25%
MINNESOTA	2,256 (41%)	283 (05%)	2,539	11,154	23%
WISCONSIN	1,047 (35%)	475 (13%)	1,521	6,771	22%
INDIANA	997 (38%)	521 (11%)	1,498	7,225	21%
NORTH DAKOTA	913 (30%)	120 (05%)	1,033	5,379	19%

- - - - -

\*% of all ag non-real estate loans held by banks

\*\*% of all ag real estate loans held by banks

\*\*\*% Total of all ag loans by all lenders

Kansas ranks number one (#1) in the nation in percent of total farm loans held in banks among states with over \$1 billion in farm loans. (National average = 21% Kansas = 31%)

Kansas ranks number two (#2) in the nation in the percent of non-real estate farm loans held by banks. (National average = 34% Kansas = 56%)

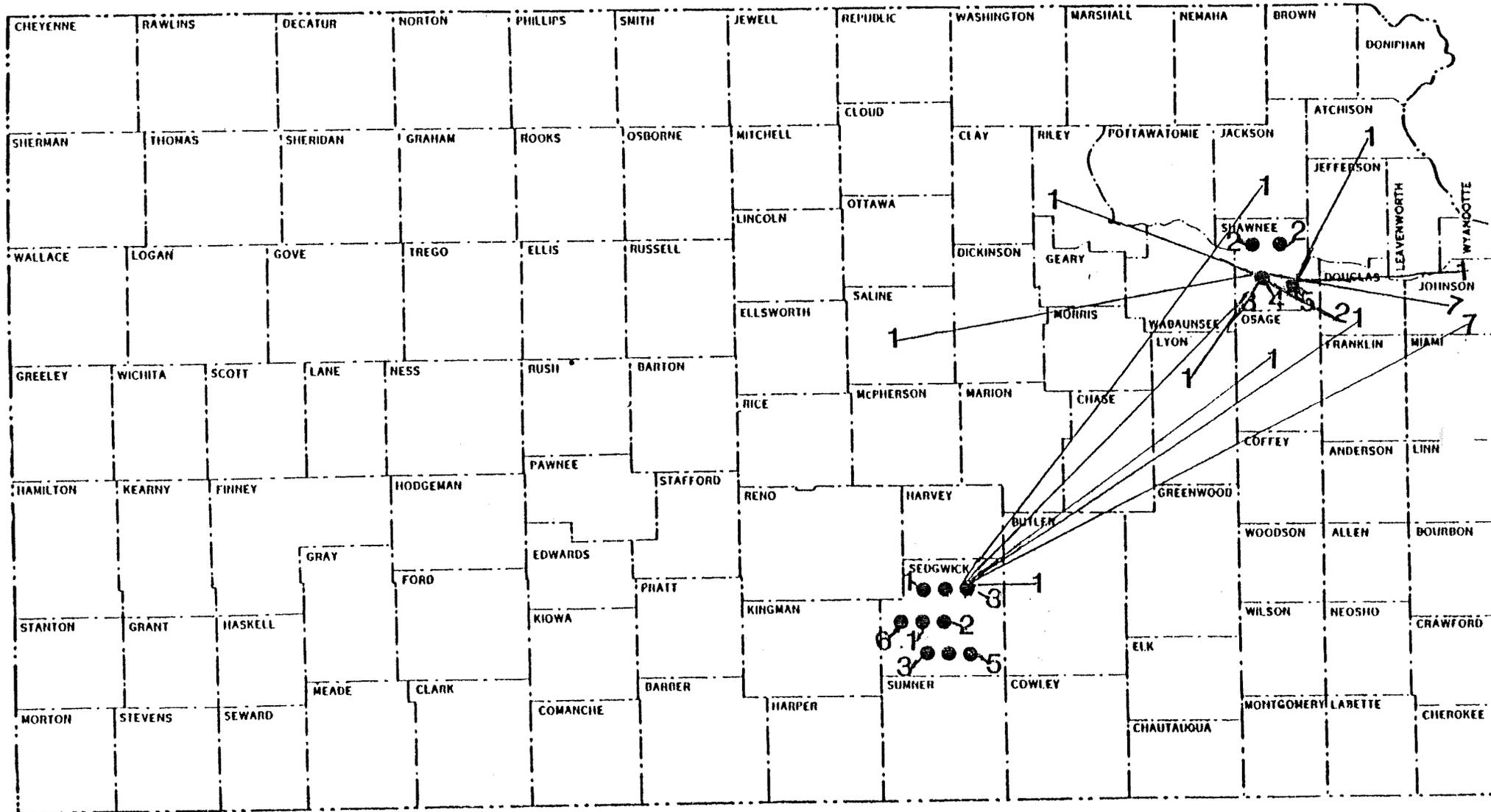
● - HOME OFFICE

# - BRANCHES

# KANSAS

(Based on 1982 information)

Topeka and Wichita



● HOME OFFICE

# BRANCES

# KANSAS

(Based on 1982 information)

Kansas City, KS  
Johnson County

