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**Testimony to the House Financial Institutions and
Rural Development Committee
HB 2489
January 26, 2022**

Chairman Kelly and Members of the Committee, thank you for hearing our bill, HB 2489.

My name is Matt Shoger, and I am a staff attorney for the Office of the State Bank Commissioner. I was involved in drafting many of the changes proposed in this bill, and I will provide an overview of those changes.

Last session, the Kansas legislature passed S. Sub. for HB 2074, creating a new financial entity in the state of Kansas called a technology-enabled fiduciary financial institution. Sections 25(e) and 29(f)(3) of the new law charge the OSBC with the duty of recommending “any legislation necessary to implement the provisions of” the TEFPI Act.

After reviewing and administering the Act since its effective date of July 1, 2021, our recommended changes are contained in HB 2489, which was introduced by the joint Committee on TEFPI Oversight following its December 7th meeting. Since then, Beneficient and the OSBC have discussed the bill further and we have agreed on several points. Several of these points of agreement would involve amendments to the bill.

Ben and the OSBC reached agreement on the following provisions, which clarify issues unique to TEFPI’s, specifically:

1. what the OSBC will evaluate during an examination,
2. that a fidfin transaction is often a sale from the perspective of the customer,
3. that certain required notifications to the OSBC must be in writing and must be made in a certain time frame,
4. when the first yearly assessment will be due, and
5. only fingerprinting officers, directors, and organizers of a TEFPI to resolve an issue that currently prevents the OSBC from obtaining FBI background checks.

We also agreed to some changes that harmonize TEFPI provisions with existing approaches for banks and trust companies, specifically:

1. to what extent a TEFPI can engage in traditional trust business,
2. that the OSBC can examine a TEFPI's service providers,
3. that initial fees are received at the time of application,
4. that assessments are allocated and paid in July,
5. how fees and assessments will be paid,
6. that the OSBC can require disclosures to customers, and
7. that TEFPI's are mandatory reporters for purposes of elder abuse.

We also agreed to several proposed technical corrections and wording improvements.

For some of the remaining items where we do not yet agree, the OSBC and Ben agreed that it might be better to wait until after an examination to review these items. These items all involve the financial intricacies of a TEFPI or at least the intricacies of an exam. Specifically, these items are:

1. capital, insurance, and bonding requirements,
2. limitations on concentration risks,
3. what happens if a TEFPI fails or stops operating either voluntarily or involuntarily,
4. the appropriate definition of insolvency for TEFPI's,
5. and whether the OSBC can examine additional items beyond those currently enumerated in the bill.

I have attached to my testimony a table summary of the agreements between the OSBC and Ben, with section numbers so you can find the various provisions.

I am happy to answer any questions. I appreciate the committee's support of the bill.

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Section	Change	Agreement?
1	resolution of TEFFI's that fail or cease to operate	🕒 can address post-exam
2(a)	definition of TEFFI Act: including section 1	✓ agreed
2(b)(3)	definition of alternative asset custody accounts: "client" to "owner"	✓ agreed
2(b)(8)	definition of fidfin transactions	📝 working on mutually agreeable language
3(d)	denial criteria	✗ not agreed
3(f)	narrowing fingerprinted individuals (due to issues with obtaining FBI background checks)	✓ agreed
3(h)(2)	subsection 11(e) to 11(f)	✓ agreed
4(a)	fee	✓ agreed, but may revisit amount post-exam
4(a)	"trust expenses" to "fiduciary financial institution expenses"	✓ agreed
4(a)	adding "is"	✓ agreed
4(a)	"received authority"	✓ agreed
4(b)	assessments: date and method	✓ agreed
5(a)(12)	definition of insolvency	🕒 can address post-exam
6(c)	insurance, bonding	🕒 can address post-exam
6(d)	additional capital	🕒 can address post-exam
7(b)-(c)	"operating agreement or bylaws" to "governing documents"	✓ agreed
8(a)-(c)	examination standards	✓ agreed
8(d)	can examine beyond enumerated criteria for learning purposes	🕒 can address post-exam
9	can engage in trust business "incidental" to fidfin transactions or alternative asset custody accounts	✓ agreed
10(a)	definition of fidfin transactions	📝 working on mutually agreeable language
10(h)	concentration risk regulations	🕒 can address post-exam
10(i)	disclosure regulations	📝 working on mutually agreeable language
11(e)	prompt written notification for service relationships	📝 agreed to remove this change (as redundant)
11(f)	can examine servicers	✓ agreed
12(b)	"director" to "commissioner"	✓ agreed
12(b)	prompt written notification for trust advisors	✓ agreed, but also working on improved language
13(a)	fixed run-on sentence and removed "if"	✓ agreed
14(f)	clarification of pilot program / charter process	📝 agreed to remove this change (as outdated)
15	mandatory reporters for purposes of elder abuse	✓ agreed