Kansas Credit Union Association

A Government Relations Division of Cornerstone

Date: March 3, 2025

To: Representative Nick Hoheisel, Chair
House Financial Institutions & Pensions Committee

From: Cale Beam
Kansas Credit Union Association

Re: HB 2089 Opponent Testimony

Thank you, Chair Hoheisel, Vice Chair Stiens, Ranking Member Xu, and the rest of the committee for the opportunity to testify on behalf of the Kansas Credit Union Association in opposition to HB 2089. The Kansas Credit Union Association (KSCUA) plays a vital role in the credit union industry. We represent 60 credit unions headquartered in Kansas, serving approximately 790,000 Kansans who are members of these credit unions. Credit unions are not-for-profit, member-owned cooperatives dedicated to providing affordable financial services to their communities.

HB 2089 includes several provisions that threaten Kansas credit unions and the members they serve. The proposals in this legislation represent unnecessary government intervention in the operations of private businesses and could lead to devastating consequences. These include reduced investment in network security and consumer protection programs, increased vulnerability to cyber threats and financial fraud, limited credit availability for Kansas consumers and small businesses, and heightened legal liability for both financial institutions and the state.

Payment Network Overview

Electronic payment options benefit all parties involved, including customers and retailers. Businesses that choose to accept debit and credit cards enjoy guaranteed payments that are processed instantly. This means that retailers do not have to chase down bounced checks or bear the costs associated with carrying large amounts of cash — which is vulnerable to theft and must be counted, stored, and transported to financial institutions. Additionally, accepting electronic payments allows merchants to offer more payment options to customers, including online transactions. The reality is most consumers prefer to use cards for payment and no longer carry cash.

In exchange for these advantages, merchants pay a small fee known as a "Merchant Discount Fee," typically around 2% of the transaction amount. This fee is shared between the merchant's financial institution, the issuing financial institution, and the card network. Revenue from these

fees funds the network's operations, including investments in security, credit card reward programs, and the activities of the involved financial institutions. Since 2021, many merchants have implemented surcharges on credit card transactions to cover their interchange fees.

Cybersecurity and Fraud

Payment networks have evolved over many decades, with billions of dollars invested through interchange revenue. This revenue is critical in funding network security investments and technological advancements that prevent data breaches and protect consumer data. Unfortunately, many merchants are contributing to skyrocketing fraud costs by failing to be PCI DSS (payment card industry data security standard) compliant as required by their contracts with credit card companies. PCI DSS is a set of security guidelines that help protect cardholder data. When a merchant fails to comply with PCI DSS requirements and then sustains a cyberattack, the cost of fraud gets pushed onto the card issuing financial institution.

Allocation of Credit

Financial institutions, including credit unions, use interchange revenue to fund their operations. For credit unions, all profits are returned to member-owners. A loss of interchange revenue would necessitate adjustments that could impede the flow of capital from financial institutions to borrowers. This could manifest in higher loan interest rates, lower interest rates on savings, reduced member dividends, and decreased services offered to member such as credit card rewards and free checking. While this legislation may benefit a select few merchants, it would have a detrimental financial impact on over 790,000 Kansans who are credit union members.

Liability

HB 2089 prohibits the collection of interchange fees on the full amount of debit or credit card transactions by excluding fees on sales taxes and gratuities. The legislation requires financial institutions to refund merchants for these fees after the purchase, merchants could submit reimbursement requests to the financial institution up to six months later. Failure to comply could result in fines and legal actions brought by the Attorney General. The additional regulatory burden proposed by this legislation would compound the already hefty existing compliance challenges financial institutions face and increase their legal liability.

In addition, this legislation would expose the state to potential litigation. Federal law preempts the regulation of federally chartered banks and credit unions, meaning the state lacks the authority to enforce this legislation. In 2024, Illinois passed similar legislation prohibiting interchange fees on sales taxes and gratuities. Shortly thereafter, a complaint was filed against the state by several trade associations, arguing against the legality of the law. A federal court has since issued a partial preliminary injunction against this legislation, with ongoing litigation that may set a precedent for similar legal challenges in Kansas if HB 2089 is enacted.

In conclusion, this legislation presents government intervention that selects winners and losers, negatively impacting Kansas financial institutions, consumers, and small businesses while benefiting a select few merchants. Thank you for the opportunity to present our opposition to HB 2089. I am happy to answer any questions at the appropriate time.