Approved: 2-3-11
Date

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 am. on January 25, 2011, in Room 152-S of the Capitol.

All members were present.

Committee staff present:
Ken Wilke, Office of the Revisor of Statutes
Heather O'Hara, Kansas Legislative Research Department
Beverly Beam, Committee Assistant

Conferees appearing before the Committee:
Shawn Mitchell, President & CEO, Community Bankers Association of Kansas
Haley DaVee, Vice President, Governmental and Public Affairs, Kansas Credit Union Assn.
Jim Turner, President, Heartland Community Bankers Association
John Smith, Administrator, Kansas Credit Union Association

Others attending:
See attached list.

Chairman Teichman welcomed everyone to the meeting.

Shawn Mitchell, President and CEO, Community Bankers Association of Kansas gave a synopsis of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 along with implications for Kansas Financial Institutions and Services. (Attachment 1)

Haley DaVee, Vice President of Governmental and Public Affairs, Kansas Credit Union Association, also presented testimony regarding the impact of the Dodd-Frank Wall Street Reform and Protection Act of 2010. She stated that Kansas credit unions are generally healthy and well capitalized. She said a recent analysis showed that the Kansas credit union industry was ahead of national growth trends in assets, shares and loans. She added, however, that despite being stable and well capitalized, Kansas credit unions are not immune from feeling the effects of the recession. (Attachment 2)

Jim Turner, President, Heartland Community Bankers Association, stated that Heartland Community Bankers Association membership is made up primarily of thrift institutions and savings and loans. He said there are currently no state charters in Kansas and all member institutions are in good shape. He said their institutions are different from banks and credit unions as their members must have at least 60-65% in housing related mortgages. Mr. Turner said the Dodd-Frank legislation passed last year will have a huge impact on their members and it is too early to tell exactly how small institutions will handle the changes. One negative effect is the potential to lose 75% from debit card fees which will most likely result in another fee to the consumer. He concluded by stating that under this regulatory climate he is concerned many members will be purchased by larger institutions or will merge with another institution. (Attachment 3)

John Smith, Administrator, Kansas Department of Credit Unions, stated that the Kansas Department of Credit unions is the state credit union financial regulatory agency authorized by the 1968 Kansas Legislature to provide for management, control, regulation and general supervision of state-chartered Kansas credit unions. (Attachment 4)

Bill introductions

LeRoy Brungardt, representing Kansas Professional Insurance Agents of America,introduced a bill concerning insurance agents and producers and revising their continuing education requirements.

Senator Holland moved to approve the introduction, Senator Longbine seconded. Motion carried.

John Peterson, representing Asurion Insurance, introduced legislation dealing with insurance for portable electronic equipment. Senator Masterson moved introduction. Senator Taddiken seconded. Motion passed.

The meeting was adjourned at 10:29 am.

SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE
GUEST LIST

DATE: 1-25-11

NAME	REPRESENTING
John P. Smith	KDCU
Michael D. Baugh	KDCU
Shawn Mitchell	Community Bankers (CBA)
Sandy Braden	GBA
Jim Turner	HCBA
Haley DaVee	KCUA
Marla Marsh	KCUA
Michelle Butler	Cap. Strategies
Jim Turner	Heartland Comm Bankers
[illegible]	KMHA
Sandra Sykes	KADCIC
[illegible]	OSBC
Scott Paradise	HOC
Rick Fleming	KSC

CBA

Community Bankers
Association of Kansas

Directed By The Members We Serve

To: Senate Financial Institutions and Insurance Committee

From: Shawn Mitchell, President and CEO
Community Bankers Association of Kansas

Date: January 18, 2011

RE: The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010: Implications for Kansas Financial Institutions and Services

Chairwoman Teichman and Members of the Senate Financial Institutions and Insurance Committee,

Thank you for the opportunity to appear before the committee today and provide you with the community banks' perspective on the current state of financial institutions in Kansas and how the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 will impact them.

My name is Shawn Mitchell and I am President and Chief Executive Officer of the Community Bankers Association of Kansas (CBA). As a community banker for more than 15 years, I've seen firsthand the important role local community banks play throughout Kansas. Our business depends on building and maintaining personal relationships with our customers, supporting other small businesses that in turn provide jobs, services and helping our communities prosper. Community banks are continually involved in improving the day-to-day life of average, everyday people. CBA is a statewide organization of locally owned and operated banks intent on preserving local credit for local development. CBA member banks are as diverse as Kansas itself, as varied as the economies and the aspirations of the communities we serve.

All financial institutions around the country have been subject to greater scrutiny, criticism, and substantial government intervention in the past months due to many Wall Street mega banks creating an environment where their employees were incented to take on substantial risk to increase profits for the firm and then rewarded with increased pay. Community banks differ from that philosophy in that we incent our staff to minimize risk and maximize community development. Our common philosophy; if our local community flourishes, then we shall also. We support many of the federal activities to promote financial institution stability.

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Attachment 1

The Dodd-Frank Wall Street Reform Bill

The bill affects every aspect of our nation's financial services marketplace. The bill contains many constructive measures as well as some harmful measures that could not be modified or eliminated, despite strong opposition from many community bankers around the country. The full impact of this legislation will not be known until the rule writing is finalized, this will take years with many revisions sure to come.

A few positive measures:

Asset-based deposit insurance assessments—FDIC assessments will be based on bank assets rather than domestic deposits, which will reduce assessment rates by a third and save community banks $4.5 billion over the next three years. Savings will compound for community banks as regular assessments continue.

Too-big-to-fail—The largest financial institutions will face higher capital and liquidity standards, a new systemic risk council and new resolution authority for the largest institutions so that they are wound down instead of propped up when they fail.

Nonbank competitors—The Consumer Financial Protection Bureau will reduce the unfair competitive advantage these firms have long enjoyed as unregulated financial services entities.

Deposit insurance limit increase—Deposit insurance coverage limit is permanently increased to $250,000.

Transaction Account Guarantee extension—Unlimited deposit insurance coverage is extended for non-interest-bearing transaction accounts for two years.

SOX Section 404(b)—Public companies with capitalization of less than $75 million are permanently exempted from the auditor attestation requirements of Sarbanes-Oxley Section 404(b).

Volcker rule—The largest banks are generally prohibited from engaging in proprietary trading or holding or obtaining an interest in a hedge fund or private equity fund, though there is a *de minimis* exception. Also included are exceptions for securities that community banks typically invest in.

The financial reform process is not over. Passing the bill is just one step in the process of financial reform that will continue to unfold for years to come.

The Wall Street Reform Act: Consumer Financial Protection Bureau

The Consumer Financial Protection Bureau (CFPB) is an independent entity under the Federal Reserve. The director is appointed by the president and confirmed by the Senate. The agency will write consumer-protection rules for banks and nonbank financial firms and ensure consumers are protected from unfair, deceptive or abusive practices. Authority for a variety of consumer-protection laws, such as EFTA, TILA, RESPA, HMDA, ECOA and TISA, is transferred to the CFPB.

Though the CFPB formed upon enactment of the law, it will take time to nominate and confirm a director and transfer existing personnel from other agencies to the new bureau. At present, the board is working under the leadership of a special adviser to the president, Professor Elizabeth Warren.

The CFPB examines and enforces regulations for banks and credit unions with more than $10 billion in assets, mortgage-related businesses and large nonbank financial firms. Prudential regulators may comment on CFPB rules before they are proposed, and the bureau has to respond in writing. The Financial Stability Oversight Council may set aside a CFPB regulation by a two-thirds vote. The CFPB shall consider the impact of new rules on depository institutions and consumers in rural areas.

While banks with assets of $10 billion or less are subject to CFPB rules, they are exempt from CFPB examination and enforcement and will continue to be examined by their prudential regulators. The CFPB can require reports from small institutions, but community banks also won relief from certain paperwork burdens, including provisions requiring banks to maintain records on the number and dollar amount of customer deposit accounts and ATM transactions, geo-code customer transactions and annual disclosures of this information.

On Friday January 7th, 2011 I spoke with Elizabeth Warren personally via phone and we discussed her goals and hopes for the new CFPB. We also discussed some of the concerns of our Kansas community bankers and how the bureau might best protect our consumers while not unduly hindering our banks from provided much needed services and products.

I then met with Professor Warren on Monday January 10th, 2011 in Washington, D.C. and we again discussed the CFPB and how community bankers in Kansas looked at the new bureau. Professor Warren informed me that the new bureau intends to focus on regulating the shadow banking system and will work to reduce regulatory cost for community banks. Warren noted that simply writing a layer of new rules will not benefit consumers and that regulators should instead level the playing field between community banks, megabanks and the estimated 80,000 non-depository financial institutions.

Thank you for your time and I would be happy to stand for questions at the appropriate time.

KANSAS CREDIT UNION ASSOCIATION

To: Senate Financial Institutions & Insurance Committee
From: Haley DaVee, Vice President of Governmental & Public Affairs
Date: Tuesday, January 25, 2011
Re: Kansas Credit Unions and the Dodd-Frank Act

The Kansas Credit Union Association appreciates the opportunity to comment today about the Kansas credit union industry and the impact of the Dodd-Frank Wall Street Reform and Protection Act of 2010. The 101 Kansas credit unions are not-for-profit financial cooperatives whose purpose is to serve the financial needs of their 605,000+ member/owners.

Kansas Credit Unions

Kansas credit unions today are generally healthy and well capitalized. A recent analysis of September 2010 call report data showed that the Kansas credit union industry was ahead of national growth trends in assets, shares, and loans. Kansas credit unions have an average capital ratio of 11.7% of assets, which is a higher level than credit unions nationwide. Kansas credit unions make up 6.8% of the marketplace by assets in Kansas. Though credit unions are only a small portion of the overall marketplace, there is an ever-greater need today for safe and sound options in the financial services marketplace.

Despite being stable and well capitalized, Kansas credit unions are not immune from feeling the effects of the recession. One effect on Kansas credit unions is the increasing volume of federal legislation and corresponding regulation that is being issued as the federal government attempts to prevent future abuses in the financial services marketplace.

Increased Regulatory Scrutiny and the Dodd-Frank Act

Though credit unions did not cause this recession, they face steep costs associated with complying with regulations targeted at the abuses that occurred at Wall Street firms. The regulatory burden is making it increasingly difficult for small to mid-size institutions to compete in this economy. The average size of credit unions in Kansas is $43 million.

The biggest difference between the Wall Street business model and the credit union business model is the member ownership component. When the institution is owned by the "customer", there is mutual responsibility to act in the best interest of each party. Every decision made at a credit union is driven by the focus on bettering the members and the financial institution they co-own. There is no incentive for credit unions or their employees to offer products that will harm their member/owners, unlike the enormous Wall Street incentives paid on future performance that can be harmful to the end user—the consumer.

Attached you will find two documents. The first is a list of the federal regulations that were implemented in 2010 and what credit unions will be working to come into compliance with in 2011. The second is a document from the Credit Union National Association outlining in

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1-25-10
Attachment 2

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significant detail the portions of the Dodd-Frank Act that are relevant to credit unions. To summarize, the following three components have the greatest impact on Kansas credit unions:

1. **Federal Insurance Permanently Increased:** Credit unions are federally insured by the National Credit Union Share Insurance Fund under the National Credit Union Administration. Under the Dodd-Frank Act, credit union share insurance will be permanently increased to $250,000.

2. **Creation of the Bureau of Consumer Financial Protection:** While most credit unions will be exempt from examination by the Bureau, credit unions will be subject to the rules issued by the Bureau. In addition, the CFPB has limited authorities for smaller institutions, including the authority to accompany NCUA examiners "on a sampling basis," authority to require reports, and authority to refer suspected violations to NCUA. For credit unions, like other financial institutions, any change in regulation increases costs. So there is concern that the rules this bureau will issue will only add to the regulatory burden credit unions are facing and increase compliance costs at a time when the economy continues to struggle.

   The Dodd-Frank Act includes a provision that directs the Bureau to identify and address outdated, unnecessary and unduly burdensome regulation with an eye toward reducing regulatory burden on credit unions and small banks. Another provision in the law directs the Bureau to take into consideration the impact of its regulations on credit unions, small banks, and rural areas. We and our national trade association will be encouraging the Bureau to use these provisions to the greatest extent possible.

3. **Interchange Fee Changes:** The Dodd-Frank Act also directs the Federal Reserve to set the rate of debit interchange fees that large financial institutions (>$10 billion) can receive. While the Fed regulations will only apply to these large institutions, there are concerns that the effect of this regulation will be felt by all debit card issuers because there is no mechanism in the law for the Federal Reserve to enforce the small issuer carve-out.

   If the Federal Reserve's proposal is implemented, it will have a devastating impact on credit unions and their members. Credit unions will face a choice of either increasing fees on their products to cover the lost revenue associated with this rule, or to stop offering debit cards to their members. We are concerned that this proposal could limit the options for consumers and those available could be more expensive.

While we certainly understand and support efforts to make financial services industry more stable, at the end of the day, every minute and every dollar a credit union spends complying with unnecessary, duplicative or unduly burdensome regulations is time and money that is not going to the benefit of its members.

In conclusion, despite the increasing regulatory burden that Kansas credit unions are carrying, the Kansas credit union industry is working as hard as ever with their members to see them through these difficult economic times. Thank you again for the opportunity to give you an update on the impact of the Dodd-Frank Act on credit unions.

Testimony of Jim Turner, Heartland Community Bankers Association
Senate Financial Institutions and Insurance
January 25, 2011

Heartland Community Bankers Association's membership is made up primarily of thrift institutions and savings and loans. My members are located in Kansas, Oklahoma, Nebraska and Colorado. There are currently no state charters in Kansas and all member institutions are in good shape. Our institutions are different from banks and credit unions as our members must have at least 60-65% in housing related mortgages.

The Dodd-Frank legislation passed last year will have a huge impact on my members and it is too early to tell exactly how our small institutions will handle the changes. One negative effect is the potential to lose 75% from debit card fees which will most likely result in another fee to the consumer. It also appears that free checking may be a thing of the past. Our members will now be regulated by the Federal OCC along with the banks.

Under this regulatory climate I am concerned many of my members will be purchased by a larger institution, will merge with another institution or be acquired in some fashion. My message to the committee is 'please do no harm'. We do not need government trying to solve the problem, or the perceived problem.

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1-25-11
Attachment 3

KANSAS SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

January 25, 2011

John P. Smith, Administrator
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FI&I Committee
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Attachment 4

Chairman Teichman and members of the Senate Financial Institutions and Insurance Committee

I am John P. Smith, Administrator of the Kansas Department of Credit Unions. With me today is Michael D. Baugh, Financial Examiner Administrator. I appreciate the opportunity to talk with you today about credit unions.

- Natural person credit unions are non-profit member owned cooperatives that provide a variety of financial services to their members. Their board and committees members are non-paid volunteers. The size and complexity of the credit union determines the number of services offered. These services may include checking accounts, consumer loans, business loans, debit cards, credit cards, first mortgages, and home equity mortgages. Today there are 80 Kansas chartered natural person credit unions with assets of $3,970,247,466, 21 federal credit unions and 1 corporate credit union operating in Kansas. Corporate credit unions provide natural person credit unions with investment, liquidity, and cash-management products and services.

552,830 or about 21% of Kansans are members of Kansas chartered credit unions.

Credit Union Financial Performance

- Third quarter September 30, 2010 call report statistics indicate Kansas credit unions are faring better than federally insured credit unions nationwide.

- Assets for Kansas credit unions increased at an annualized growth rate of 3.60%; nationally by 3.50%. September 30 assets totaled $3,970,247,446, an increase of $215,858,709 since June 30, 2010.

- Annualized loan growth increased by 5.75% compared with a 3.86% growth rate nationally.

- Total loans for Kansas chartered credit unions have increased by $161,293,171 or 6.38% for the 12 months ending 9/30/10. Total loans for all federally insured credit unions have decreased by $8,410,553,387 or 1.46% over the same period of time.

- Credit union average delinquency remained unchanged from June, 2010 at 1.36% compared to an increase of 2 basis points at 1.75% for all federal credit unions nationwide.

- The September 30, 2010 year to date (YTD) annualized return on average assets (ROAA) for Kansas chartered credit unions combined was 0.64% after the Temporary Corporate Credit Union Stabilization Expense and a premium assessment for the National Credit Union Share Insurance Fund (NCUSIF). This is an increase from 0.58% at June 30, 2010. Prior to the expenses noted above the combined ROAA for Kansas chartered credit unions was 0.77%. For all FICU's the ROAA as of September 30, 2010 was 0.45% after the Temporary Corporate Credit Union Stabilization Expense and NCUSIF premium assessment. This is an increase from 0.40% at June 30, 2010. Prior to the expenses noted above the ROAA was 0.61%.

Home mortgage lending as of the September 30, 2010 call report:

- 41 of 81 or 51% of Kansas chartered credit unions reported first mortgage loans on their September 30, 2010 call report. The balance of these first mortgages totaled $508,170,600 or 18.89% of total loans outstanding. 26 credit unions offered no mortgage products.

- 51 of 81 or 63% of Kansas chartered credit unions reported second mortgage loans on the September 30, 2010 call report. The balance of these second mortgage loans totaled $243,846,324 or 9.06% of total loans outstanding.

- All mortgages, (first and second) totaled $752,016,736 or 28% of total loans outstanding.

- There were $7,678,992 mortgage loans that were more than 60 days delinquent for a mortgage loan delinquency ratio of 1.02%.

Member Business Loans as of the September 30, 2010 call report.

- 24 of 81 or 30% of Kansas chartered credit unions reported member business loans on their September 30, 2010 call report.

- Total member business loans as of September 30, 2010 were $132,262,642. This is 5.03% of total loans outstanding as of September 30, 2010.

- There were $3,431,068 member business loans reported 60 days delinquent as of September 30, 2010 for a member business loan delinquency ratio of 2.54%.

- Member business loans are classified as loans made for business purposes with aggregate balances greater than $50,000.

- By federal credit union statute credit unions are limited in the amount of business loans they can make to 12.25% of total assets or 1.75% of net worth.

Credit Union Regulation

- The Kansas Department of Credit Unions (the Department) is the state credit union financial regulatory agency authorized by the 1968 Kansas Legislature to provide for management, control, regulation and general supervision of state-chartered Kansas credit unions. The Department is fully funded as a fee fund agency operating solely on the revenue produced through fees collected from state-chartered credit unions examined and regulated by the agency.

- All fees received by the Department are remitted to the state treasurer with 20% credited to the state general fund and the balance credited to the credit union fee fund.

- The Department has 11 FTE's consisting of an Administrator, a Financial Examiner Administrator, three Financial Examiner Principals, three Financial Examiner Seniors, one Financial Examiner, and two Administrative Specialists. (Attachment A is the organization chart for the Department)

- All member accounts in Kansas credit unions are insured by the National Credit Union Share Insurance Fund. The National Credit Union Share Insurance Fund (NCUSIF) is the federal fund created by Congress in 1970 to insure member's deposits in federally insured credit unions. The insurance limit was permanently increased to $250,000 per individual depositor on September 17, 2010. Administered by the National Credit Union Administration (NCUA), the NCUSIF is backed by the "full faith and credit" of the U.S. Government.

- The Department is required by statute to examine every Kansas state-chartered credit union at least every 18-months to ensure financial stability and compliance with state and federal laws and regulations. Currently the average period between examinations is just under a 13-month cycle, a standard the Department has maintained since 2002.

Credit Union Examination Results

- At the conclusion of each examination KDCU issues a CAMEL rating in Capital, Asset Quality, Management, Earnings, and Asset-Liability Management. From the individual ratings of 1 (least financial risk) to 5 (most financial risk) an overall composite rating of 1 to 5 is assigned. As of December 1, 2010, the ratings were

- CAMEL 1 14 credit unions or 17%
- CAMEL 2 56 credit unions or 68%
- CAMEL 3 9 credit unions or 11%
- CAMEL 4 3 credit unions or 4 %
- CAMEL 5 0

CAMEL ratings have remained stable with no increase in credit unions given a CAMEL 3, 4 or 5 during the past 5 years.

Chairman Teichman, this concludes my remarks. I will respond to questions members of the committee may have regarding credit unions or my testimony. Again, I appreciate the opportunity to appear before the committee.