

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 A.M. on March 6, 2008 in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Ken Wilke, Office of Revisor of Statutes
Bev Beam, Committee Secretary
Jill Shelley, Kansas Legislative Research Department

Conferees appearing before the committee:

Doug Wareham, KBA
Matt Goddard, Heartland Community Bankers'
John Federico, Kansas Credit Union Assn.
Jerel Wright, Kansas Credit Union Assn.
Larry Damm, Cessna Employees Credit Union
Lee Williams, Central Star Credit Union
Gary Regoli, Boeing Wichita Credit Union
Leslie Kaufman, Kansas Cooperative Council (written only)

Others attending:

See attached list.

The Chair called the meeting to order.

Hearing on:

SB 535 - an act concerning credit unions; pertaining to field of membership; pertaining to mergers; pertaining to branches

The Chair announced that the proponents would be given 20 minutes and the opponents 20 minutes. She said the rest of the time would be used for questions. She said if neither side uses their 20 minutes, the time will go to the question and answer period. The Chair opened the hearing on SB 535 and recognized Senator Wilson for his work as Chair of the subcommittee.

Senator Wilson presented committee members with bullet points of his presentation on March 5, as he promised.

Doug Wareham, Kansas Bankers' Association, testified in support of SB 535, stating that SB 535 was introduced in response to the 2006 Legislative Post Audit Report regarding the Kansas Department of Credit Unions and has three primary objectives:

1. Establishes credible and proven common bond/field of membership standards for state-chartered credit unions in Kansas.
2. Implements much needed transparency requirements for credit unions that modify their fields of membership or branch into a new community.
3. Grandfathers (protects) all existing members of state-chartered credit unions and existing branches to ensure Kansans currently being served by credit unions are not negatively impacted by field of membership requirements proposed in this bill.

Mr. Wareham said that in light of the Department's unwillingness to modify their interpretation and actions after reviewing the findings of Legislative Post Audit, KBA believes more prescriptive requirements regarding credit union fields of membership must be adopted by the Kansas Legislature. Failing to take action on this measure would be neglecting the fact that a state law is not being adhered to, Mr. Wareham said. He said additionally, establishing state standards that will foster greater transparency and accountability

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of the Department's internal approval processes for branching and field of membership modifications also need to be adopted.

Mr. Wareham continued that the field of membership and transparency standards included in the subcommittee report on SB 535 will remove any ambiguity that currently exists between Kansas Law and the Kansas Department of Credit Unions' interpretation of the law. This proposal will address the concerns raised by Legislative Post Audit. He said this bill will establish much needed credibility and accountability for the Kansas Department of Credit Unions and the state-chartered credit unions they regulate. Mr. Wareham said this is an extremely important issue and that KBA stands ready to work with the committee and other stakeholders to identify an equitable outcome on this matter. (Attachment 1)

Matt Goddard, Heartland Community Bankers' Association, testified in support of SB 535. Mr. Goddard stated that the subcommittee report represents a fair compromise on the credit union field of membership issue. He said most importantly, by grandfathering current credit union members, it will not interfere with established relationships between credit unions and their customers. He continued that field of membership is on the public agenda because in 2006 the Legislative Division of Post Audit determined that the Credit Union Department's interpretation of field of membership requirements doesn't appear to conform to State law. HCBA believes that the common bond is the primary justification for the unique benefits of the credit union charter and as such, it is important that the common bond be enforced, he said. Mr. Goddard noted that if credit unions want to be freed from what they apparently consider to be the oppressive yoke of the common bond and field of membership standards, then they should also be willing to give up the benefits that come with "limiting" their membership to groups having a true common bond. (Attachment 2)

John J. Federico testified in opposition to SB 535, on behalf of the Kansas Credit Union Association (KCUA). Mr. Federico stated he would focus on a couple of key issues for the committee to consider as they deliberate on the bill:

1. The rationale offered as the basis for the legislation is based on conjecture and opinion, not a legal determination.
2. SB 535 is punitive.
3. Passage of the bill would offer the appearance of preferential treatment in favor of traditional banks, to the detriment of member-owned financial cooperatives.
4. The bill is anti-consumer. (Attachment 3)

Jerel Wright, on behalf of the Kansas Credit Union Association, also testified in opposition to SB 535. Mr. Wright said credit unions oppose SB 535 because the bill appears to rob Kansas consumers and Kansas credit unions of their decision over who can become a credit union member. He said this bill takes away the right to choose by giving the Kansas banking industry the power to create credit union law. He said Kansas consumers and Kansas credit unions deserve the right to make their own financial choices rather than surrendering them to the banking industry. Mr. Wright said the bill will effectively eliminate the state charter in Kansas. (Attachment 4)

Larry Damm, on behalf of the Cessna Employees Credit Union, stated that the Kansas Bankers Association started this process with the Legislative Post Audit Committee three and a half years ago. He said it is not the consumers who brought the credit unions and the taxpaying banking industry here. He said credit unions are not just like the tax-paying financial institutions. There are basic structural differences. They are:

- There is a difference between for-profit companies and not-for-profit companies.
- There is a basic difference in federal tax code between corporations under Chapter C and sub S sections. We are a 501c14 company under the federal tax structure which is very different. It puts us in not-for-profit status.

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- Banks are stockholder owned. They take risks, they invest, they are there to make money for the owners of the bank. That is not bad, that is good. I have had stock in banks. But credit unions are cooperatively owned by their members. Every single member is an owner in the business, he said.

- Banks and corporations pay their Board of Directors for their services. That is not bad. They have a stake in the business, so do our members. But our Board of Directors are volunteers. By law we cannot pay them. They represent their members on a cooperative basis to guide the credit union.

- Banks' profits are returned to their stockholders. That is not bad. They have risks, they have invested, they are managing their risks, and that is where their money goes. Credit unions are not-for-profit. Our money goes to the members. We do this in rates, services, in fees. We try to balance our efforts to our owners. We return the benefit of that cooperative to our owners.

- Credit unions do pay taxes. We don't pay federal income tax, we don't pay the state privilege tax, but we do pay payroll taxes, sales taxes, and property taxes. Our sole purpose is to serve our members.

Mr. Damm said the banking community has mis-characterized credit unions as lawbreakers and violating the public trust. He said that just isn't true. He said the timing of this bill couldn't be worse. We are in a national economic slow down. The nation's economy is cooling off. We have a sub-prime mortgage crisis that will affect Kansas. Mr. Damm said when he was in Washington, congressional leaders challenged the 5,000 credit union representatives. They said credit unions are not a part of the problem but we expect credit unions to be part of the solution to the problem. Credit unions are willing to be a part of the solution, but it is very difficult while we are standing here in the legislative halls of Kansas defending ourselves against a bill that restricts services and limits consumer choice. He said this bill is bad public policy. ([Attachment 5](#))

Lee Williams testified on behalf of Central Star Credit Union. She stated credit union statute was written in 1929. It was short, sweet and simple, leaving room for the document to evolve, she said. She noted, so that the not-for-profit, volunteer led, democratically run financial cooperative known as a "credit union" would have a foundation on which to build. She said that has taken place during the last 60 years. She said the credit union regulator and the credit unions have made decisions that have enhanced the financial lives of member owners. She said there are almost 600 thousand Kansans who choose a credit union today. She noted credit union success has helped consumers, without hurting other businesses or requiring state assistance.

([Attachment 6](#))

Gary Regoli, Boeing Wichita Credit Union, stated if this law were enacted, credit unions would have no choice but to shrink from their field of membership. Mr. Regoli asked if the committee has been shown that at least one credit union's services would be available to all Kansans? Is it appropriate for a credit union bill be written by a KBA attorney? He asked if they really believe that change is in the best interest of their constituents? Mr. Regoli asked if the United States credit industry will consider Kansas as being progressive in its treatment of its own credit unions or will you decide to place Kansas on a short list of states that are considered unfriendly to their own credit unions such as our neighbors to the east in Missouri? He noted, this is a chance to be progressive or cave in to special interests. ([Attachment 7](#))

The meeting adjourned at 10:30 a.m.