

Approved January 26, 1983
Date

MINUTES OF THE Senate COMMITTEE ON Commercial and Financial Institutions

The meeting was called to order by Sen. Neil H. Arasmith at
Chairperson

9:00 a.m./~~p.m.~~ on January 20, 1983 in room 529-s of the Capitol.

All members were present except:

Senators Harder and Hess, excused

Committee staff present:

Bill Wolff, Legislative Research
Myrta Anderson, Legislative Research
Bruce Kinzie, Revisor of Statues

Conferees appearing before the committee:

Marvin Umholtz, Kansas Credit Union League

The minutes of January 19 were approved.

Marvin Umholtz, Kansas Credit Union League, appeared to request that two bills be introduced and referred back to committee. He passed out copies of the two proposed bills. (See Attachment I). He gave a brief explanation of the purpose of the bills and answered questions asked by Sen. Pomeroy regarding Sections 2 and 4 of the first proposed bill.

Sen. McCray made a motion that the two bills be introduced and referered back to the committtee. Sen. Karr seconded the motion. The motion carried.

The chairman announced that the next meeting will be on January 26.

The meeting was adjourned.

SENATE COMMITTEE

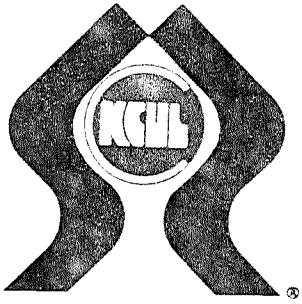
ON

COMMERCIAL AND FINANCIAL INSTITUTIONS

OBSERVERS
(Please print)

DATE NAME ADDRESS REPRESENTING

1/20	Jim Meag	Topeka	KBA
1/20	JOHN RUCKER	Topeka	KSCU 2
	MORRIS UMBELTZ	Topeka	KUL
	TOM WILDER	Topeka	KSL



**Kansas
Credit
Union
League**

1010 TYLER, SUITE 205
TOPEKA, KANSAS 66612

DATE: January 20, 1982
TO: Senate Commercial and Financial Institutions Committee
FROM: Marvin C. Umholtz, Governmental Affairs Director
SUBJECT: Bill Proposal Introduction Request

Mr. Chairman, Members of the Committee:

I appreciate having the opportunity to appear before the Committee on behalf of the Kansas Credit Union League to request the introduction of two measures as committee bills and to further request the Chairman's and the Members' assistance in having the measures referred back to the committee for hearings.

Both measures amend the Kansas Credit Union Act (article 22 of chapter 17). In brief, they are:

1. Our association's response to the Depository Institutions Act of 1982; also includes codification in Kansas Law of certain Federal Credit Union regulatory authorities and technical and clarifying amendments. Amending: K.S.A. 17-2216, 17-2216a, 17-2219, 17-2222 and K.S.A. 1982 Supp. 17-2213.
2. A proposal designed to provide the Kansas Credit Union Administrator with clear statutory authority to appoint a share (savings) insurer or guarantee corporation as the receiver for an insured credit union which is experiencing difficulties. Although not absolutely essential, the effective date of the bill proposal has been designated as "publication in the Kansas Register" as a precautionary measure. Amending: K.S.A. 17-2230.

NOTE: Revisor's office technical amendments and clarifying language are certainly welcome.

Thank you, Mr. Chairman, I will certainly stand ready to answer any questions concerning this request.

ASSOCIATION OF
KANSAS CREDIT UNIONS
AFFILIATED WITH CUNA, INC.
AND THE
ORLD COUNCIL OF CREDIT UNIONS

Attachment I

SHORT TITLE: Partial Response to Federal CU Amendments made by the Depository Institutions Act of 1982, Codification of Certain NCUA Regulatory Authorities for FCU's and Miscellaneous Technical Amendments.

Be it enacted by the Legislature of the State of Kansas:

1 Section 1. K.S.A. 1982 Supp. 17-2213 is hereby amended to read as
2 follows:

3 17-2213. (a) Any credit union may receive money for the payment of
4 shares from minors or in the name of minors, and may pay the same to such
5 minors whether or not the minors are emancipated until receiving a certi-
6 fied copy of the appointment of a legal guardian of such minors. Payments
7 so made shall discharge the credit union forever from any further liability
8 on account of such shareholdings for the money so paid by the credit
9 union.

10 (b) Shares may be issues in the name of a minor and in trust
11 in such way and manner as bylaws provide. All types of shares may be held
12 in the name of a member in trust for a beneficiary or beneficiaries or in
13 the name of a nonmember in trust for a beneficiary who is a member. Bene-
14 ficiaries may be minors, but no beneficiary unless a member shall be per-
15 mitted to vote, obtain loans, hold office or be required to pay an
16 entrance or membership fee. Payment of part or all of such a trust account
17 to the party in whose name the account is held shall, to the extent of
18 such payment, discharge the liability of the credit union to that party
19 and to the beneficiary and the credit union shall be under no obligation
20 to see to the application of such payment. In the event of death of the
21 party in whose name a trust account is held the funds shall be paid to
22 the beneficiary.

23 (c) A member may designate any person or persons, including
24 minors, to hold shares with such member in joint tenancy with the right
25 of survivorship, but no joint tenant, unless a member shall be permitted
26 to vote, obtain loans, or hold office or be required to pay an entrance
27 fee or membership fee. Such joint tenancy shareholders or any part thereof
28 or any dividends or earnings due or payable thereon may be paid to or on
29 order of any joint tenant, whether the other or others be living or not;
30 and the receipt, order, or acquittance of the persons so paid shall be a
31 valid and sufficient release and discharge to the credit union for any
32 payment so made.

1 (d) A credit union is authorized to act as trustee or cus-
2 dian, and may receive reasonable compensation for so acting, under any
3 written trust instrument or custodial agreement created or organized in
4 the United States and forming part of a pension plan which qualifies or
5 qualified for specific tax treatment under section 401(d) or 408 of the
6 Internal Revenue Code, for its members or groups or organizations of its
7 members, provided the funds of such plans are invested in share accounts
8 or share certificate accounts of the credit union. All funds held in a
9 trustee or custodial capacity must be maintained in accordance with
10 applicable laws and rules and regulations as may be promulgated by the
11 United States Secretary of Labor, the United States Secretary of the
12 Treasury, or any other authority exercising jurisdiction over such trust
13 or custodial accounts. The credit union shall maintain individual
14 records for each participant which show in detail all transactions relat-
15 ing to the funds of each participant or beneficiary.

16 The plan shall provide for the appointment of a successor trustee or
17 custodian by a person, committee, corporation or organization other than
18 the credit union or any person acting in a capacity as a director, employ-
19 ee or agent of the credit union, upon notice from the credit union or the
20 administrator that the credit union is unwilling or unable to continue
21 to act as trustee or custodian.

22 Sec. 2. K.S.A. 17-2216 is hereby amended to read as follows:
23 17-2216. (a) A credit union may loan to its members, as provided,
24 for such purposes and upon such security as the bylaws may provide and
25 the credit committee or duly authorized loan officer shall approve. Loans
26 to members shall be made in conformity with criteria established by the
27 board of directors. Notwithstanding the provisions of K.S.A. 16a-2-502,
28 the bylaws of the credit union may provide that any member whose loan is
29 delinquent may be required to pay a late charge as determined by the board
30 of directors. No loan shall be made in excess of \$500 or 10% of the
31 credit union's total assets, whichever amount is greater. A member who
32 needs funds with which to purchase necessary supplies for growing crops
33 may receive a loan in fixed monthly installments instead of one sum. A
34 borrower may repay the whole or any part of the loan on any day on which
35 the office of the credit union is open for the transaction of business,
36 except that on a first or second mortgage loan a credit union may require
37 that any partial prepayments be made on the date monthly installments are
38 due, and be in the amount of that part of one or more monthly installments

1 which would be applicable to principal. A loan secured by the insurance
 2 or guarantee of, or with advance commitment to purchase the loan by the
 3 federal government, a state government or any agency of either may be
 4 made under the terms and conditions specified in the law under which such
 5 insurance, guarantee or commitment is provided.

6 (b) A credit union may make loans to its own employees, or
 7 to other members for which the employee acts as guarantor or endorser,
 8 but all such loans shall be reported to the administrator at least semi-
 9 annually, and may be made only if:

10 (a) (1) It complies with all lawful requirements under the
 11 credit union law with respect to loans to other borrowers and is not on
 12 terms more favorable than those extended to other borrowers;

13 (b) (2) in the case where, upon the making of the loan,
 14 the aggregate amount of loans outstanding to the borrower exceeds by
 15 ~~\$5,000~~ \$10,000 the total amount of shares, share certificates and other
 16 shareholdings in any credit union, not otherwise encumbered or pledged,
 17 which are pledged as security for the loans of the borrower, the loan is
 18 approved by the credit committee or duly authorized loan officer and by
 19 the board of directors; and

20 (c) (3) the borrower takes no part in the consideration of
 21 the application and does not attend any committee or board meeting while
 22 the application is under consideration.

23 Sec. 3 K.S.A. 17-2216a is hereby amended to read as follows:
 24 17-2216a. A credit union may make loans to its directors, credit commit-
 25 tee members and supervisory committee members or other members for which
 26 the director or committee member acts as guarantor or endorser who are
 27 not employees only if:

28 (a) Such a loan complies with all lawful requirements under
 29 the credit union law with respect to loans to other borrowers and is not
 30 on terms more favorable than those extended to other borrowers;

31 (b) in the case where, upon the making of the loan, the
 32 aggregate of loans outstanding to the borrower exceeds by ~~\$5,000~~ \$10,000
 33 the total amount of shares, share certificates and other shareholdings in
 34 any credit union, not otherwise encumbered or pledged, which are pledged
 35 as security for the loans of the borrower, the loan is approved by the
 36 credit committee or duly authorized loan officer and the board of direct-
 37 ors; and

1 (c) the borrower takes no part in the consideration of the
2 application and does not attend any committee or board meeting while the
3 application is under consideration. All such loans shall be reported to
4 the administrator at least semi-annually.

5 Sec. 4 K.S.A. 17-2219 is hereby amended to read as follows:
6 17-2219. (a) Subject to subsection (b) of this section At at any

7 regularly called meeting the members, by two-thirds vote, may expel from
8 the credit union any member thereof.

9 (b) The board of directors of a credit union may, by major-
10 ity vote of a quorum of directors, adopt a policy with respect to expul-
11 sion from membership based on nonparticipation by a member in the affairs
12 of the credit union. In establishing its policy, the board should con-
13 sider a member's failure to vote in annual credit union elections or
14 failure to purchase shares from, obtain a loan from, or lend to the
15 credit union. If such a policy is adopted, written notice of the policy
16 as adopted and the effective date of such policy shall be mailed to each
17 member of the credit union at the member's current address appearing on
18 the records of the credit union not less than 30 days prior to the effect-
19 ive date of such policy. In addition, each new member may be provided
20 written notice of any such policy prior to or upon applying for member-
21 ship.

22 (c) A member may withdraw from a credit union, as herein-
23 after provided, by filing a written notice of such intention. All amounts
24 paid on shares of an expelled or withdrawing member, with any dividends
25 credited to his the member's shares to the date of expulsion, or withdrawal,
26 shall be paid to said member, but only as funds therefor become available,
27 and after deducting any amounts due to the credit union by said member.
28 All shares of an expelled or withdrawing member, with any interest accrued,
29 shall be paid to such member, subject to sixty days' notice, and after
30 deducting any amounts due to the credit union by said member. Said member,
31 when withdrawing shares, shall have no further right in said credit union
32 or to any of its benefits, but such expulsion or withdrawal shall not
33 operate to relieve such member from any remaining liability to the credit
34 union.

1 Sec. 5 K.S.A. 17-2222 is hereby amended to read as follows:
2 17-2222. A credit union organized under K.S.A. 17-2201 to 17-2221,
3 both sections inclusive, and acts amendatory thereof and supplemental
4 thereto, may be converted into a federal credit union by complying with
5 the following requirements:

6 (1) The proposition for such conversion shall first be
7 approved by a majority of the directors of the credit union. The propo-
8 sition then shall be submitted to a meeting vote of its members, the
9 notice of which shall be in writing and shall be delivered in person to
10 each member, or shall be mailed to each member at the address for such
11 member appearing on the records of the credit union, not more than ~~thirty~~
12 ~~(30)~~ 30 nor less than seven ~~(7)~~ days prior to the time of the meeting
13 vote. Approval of the proposition for conversion shall be by the affirm-
14 ative vote of ~~not less than two-thirds-(2/3)~~ a majority of the members
15 ~~present and voting at the meeting~~ on the proposition.

16 (2) A copy of ~~the minutes of such meeting~~ a statement of
17 the results of the vote, verified by the affidavits of the ~~president or~~
18 ~~vice-president~~ executive officer of the board and the secretary of the
19 meeting board, shall be filed with the administrator within ten ~~(10)~~
20 days after the meeting vote.

21 (3) Promptly after the ~~adjournment of such meeting of the~~
22 ~~members,~~ vote is taken and in no event later than ~~ninety-(90)~~ 90 days after
23 such meeting vote, the credit union shall take such action as may be neces-
24 sary under the federal credit union act to make it a federal credit union,
25 and within ten ~~(10)~~ days after receipt of the federal credit union charter
26 there shall be filed with the administrator a copy of the charter thus
27 issued. Upon such filing the credit union shall cease to be a state credit
28 union.

29 (4) Upon ceasing to be a state credit union, such credit
30 union shall no longer be subject to any of the provisions of the state law
31 under which said credit union was organized. The successor federal credit
32 union shall be vested with all of the assets and shall continue responsible
33 for all of the obligations of the state credit union to the same extent
34 as though the conversion had not taken place.

1 Sec. 6. K.S.A. 17-2216, 17-2216a, 17-2219, 17-2222 and K.S.A. 1982
2 Supp. 17-2213 are hereby repealed.

3 Sec. 7. This act shall take effect and be in force from and
4 after its publication in the statute book.

SHORT TITLE: Clear Statutory Authority for CU Administrator to Appoint NCUA and Share Guarantee Corporation as Receiver.

Be it enacted by the Legislature of the State of Kansas:

1 Section 1. K.S.A. 17-2230 is hereby amended to read as follows:
2 17-2230. (a) Voluntary. At a meeting especially called to consider
3 the matter, a majority of the entire membership may vote to dissolve the
4 credit union, provided a copy of the notice was mailed to the administra-
5 tor at least ten ~~(10)~~ days prior thereto. Any member not present at such
6 meeting may, within the next ~~twenty-(20)~~ 20 days vote in favor of disso-
7 lution by signing a statement in form approved by the administrator and
8 such vote shall have the same force and effect as if cast at such meet-
9 ing. The credit union shall thereupon immediately cease to do business
10 except for the purposes of liquidation, and the executive officer of the
11 board, and secretary of the board shall, within five ~~(5)~~ days following
12 such meeting, notify the administrator of intention to liquidate and
13 shall include a list of the names of the directors and officers of the
14 credit union together with their addresses. Any credit union which has
15 voted to enter into voluntary dissolution may by action of its board of
16 directors make a written application to the administrator for the appoint-
17 ment of a receiver and the administrator shall then exercise such powers
18 of appointment, control and supervision of a receiver as is provided
19 where a credit union is insolvent.

20 (b) Involuntary. If it shall appear that any credit union
21 is bankrupt or insolvent, or that it has violated any of the provisions
22 of this act, the administrator may, after holding a hearing or giving
23 adequate opportunity for a hearing, order such credit union to correct
24 such condition and shall grant it a reasonable time under the circum-
25 stances of the case within which to comply, and failure to do so shall
26 afford grounds for revocation of the corporate charter. When the admini-
27 strator finds that a credit union is insolvent he the administrator forth-
28 with shall appoint a receiver therefor, and require ~~him~~ the receiver to
29 give such bond as he the administrator deems proper. The administrator
30 also shall fix reasonable compensation for the receiver but the same
31 shall be subject to approval of the district court of the county wherein
32 such credit union is located upon application of any party in interest.

1 The administrator may appoint as receiver the Kansas credit union lea
2 or the insurer or guarantee corporation meeting the requirements of
3 article 22 of chapter 17 of the Kansas Statutes Annotated, and any amend-
4 ments thereto, for the credit union involved. Such receiver shall follow
5 the liquidation procedure set out herein as-such-receiver.

6 Any receiver appointed shall make a complete report to the administrator
7 covering ~~his~~ the acts and proceedings as such receiver. The administrator
8 may remove for cause any receiver and appoint a successor. The receiver,
9 under the direction of the administrator, shall take charge of any insol-
10 vent credit union and all of its assets and property, and liquidate the
11 affairs and business thereof for the benefit of its creditors and share-
12 holders as provided in this section and any amendments thereto. Such
13 receiver may sell or compound all bad and doubtful debts and sell all the
14 property of any such credit union upon such terms as the administrator
15 shall approve. The administrator shall have the general supervision of
16 all the acts of the receiver. All claims of creditors and shareholders
17 must be filed with the receiver within one ~~(1)~~ year after the date of ~~his~~
18 appointment of the receiver, and if any shareholder claim or creditor
19 claim is not so filed then it shall be barred from participation in the
20 estate and assets of any such credit union. The receiver of any insolvent
21 credit union may borrow money and pledge the assets of such insolvent
22 credit union but only upon prior written approval of the administrator.
23 At least once each year the administrator shall examine every credit
24 union in the hands of the receiver and copies of such examination reports
25 shall be available to any interested shareholder or creditor by written
26 request made to the administrator. Every receiver shall submit the records
27 and affairs of such credit union to an examination by the administrator or
28 ~~his~~ any assistant to the administrator and examiners whenever ~~he~~ the
29 receiver is requested to do so. The receiver of any credit union shall
30 make reports to the administrator in the same manner as required of other
31 credit unions.

32 (c) Liquidating procedure. The credit union shall continue
33 in existence for the purpose of discharging its debts, collecting and dis-
34 tributing its assets, and doing all acts required in order to wind up its
35 business and may sue and be sued for the purpose of enforcing such debts
36 and obligations until its affairs are fully adjusted.

1 The board of directors, or the receiver shall use the assets of the
2 credit union to pay: First, expenses incidental to liquidation including
3 any surety bond that may be required; second, remaining liabilities other
4 than shareholdings; and third, the assets then remaining, if any, shall
5 be distributed to the savings held by each member as of the date dissolu-
6 tion was voted.

7 As soon as the board or the receiver determines that all assets from
8 which there is a reasonable expectancy of realization have been liquidated
9 and distributed as set forth in this section, they shall execute a certifi-
10 cate of dissolution on a form prescribed by the administrator and file
11 same with the register of deeds of the county wherein the credit union
12 had its registered office, who shall, after recording and indexing same,
13 forward it to the administrator, whereupon such credit union shall be dis-
14 solved. The administrator shall furnish a copy of the certificate of dis-
15 solution to the secretary of state.

16

17 Sec. 2. K.S.A. 17-2230 is hereby repealed.

18

19 Sec. 3. This act shall take effect and be in force from and
20 after its publication in the Kansas Register.