

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. ~~pm~~ on February 9, 1984 in room 529-S of the Capitol.

All members were present except:

Senators Harder and Hess - Excused

Committee staff present:

Bill Wolff, Legislative Research
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee:

Marvin Umholtz, Kansas Credit Union League

The minutes of February 7 and February 8 were approved.

The chairman called on Marvin Umholtz, Kansas Credit Union League, to give testimony on SB 559 concerning general powers of credit unions. (See Attachment I.)

At the conclusion of the first half of his testimony concerning the Central Liquidity Facility (CLF) amendment, Mr. Umholtz paused for any questions the committee had concerning this amendment. Sen. Pomeroy asked why a credit union would be receiving payments from the CLF. Mr. Umholtz answered that it is a practice of credit unions to invest in the CLF in order to have capital available if they are not able to get funds from other sources. Sen. Pomeroy said that he feels that extra language needs to be added in a separate sentence to make this clear, and Mr. Umholtz was agreeable with the suggestion. The chairman asked for an explanation of the difference between "shares" and "share certificates". Mr. Umholtz explained that "shares" is federal language whereas "share certificates" is state language. Sen. Feleciano had a question about the last paragraph of the first part of Mr. Umholtz's testimony as to why the anticipatory language is needed when the credit unions have "wildcat" authority in such cases where federal language does not exist. The chairman explained that the credit unions would rather have the authority to be spelled out in the statute than just have the "wildcat" authority.

At this time, Mr. Umholtz said that he would like to propose an "emotional amendment" to the bill on lines 136 and 139 to change the word "surviving" to "continuing". He feels that "surviving" suggests that the credit union is not sound but that "continuing" reflects the meaning better.

Upon conclusion of Mr. Umholtz's testimony, Sen. Gordon asked how many mergers took place in 1983. Mr. Umholtz replied that there was a small amount of mergers but that they are hearing more and more questions about information concerning mergers. Sen. Gordon inquired further if the same system used for bank and saving and loan mergers is used for credit unions. Mr. Umholtz answered that the credit unions follow a different system.

Sen. McCray questioned the logic of the amendment offered on lines 113-116 involving the vote on a merger plan. Mr. Umholtz explained that the concept here is that for any meeting, all members are informed, but many times the members do not attend. The intent is not to avoid the having of 10% of the membership vote but to allow a vote when all those members who did vote are in agreement. The chairman asked where the requirement that notice be sent to all members is located, and Mr. Umholtz answered that it is found in 17-2207. Sen. Werts asked Mr. Umholtz if credit union members are not as much stockholders as those in banks and savings and loans. Mr. Umholtz reasoned that in banks and savings and loans the more shares one holds, the more his vote counts; but in credit unions, this is not the case but rather is a one man, one vote situation. Mr. Umholtz added that he feels this is a good law and has worked well for the past fifty years.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS,
room 529-S, Statehouse, at 9:00 a.m./~~pm~~ on February 9, 1984.

In reference to Attachment I of Mr. Umholtz's testimony, Sen. Pomeroy asked why the credit union would be receiving payments if they issued the shares. Mr. Umholtz replied that an investment would be a broader word than shares. Sen. Pomeroy inquired further as to how the CLF could purchase shares without being a member of the credit union. Mr. Umholtz explained that federal law allows this. Jim Holt, Kansas Credit Union League, explained further that the confusion occurs because the federal language uses "payment on shares" rather than "investment" which is much clearer. The chairman asked Sen. Pomeroy if he would like to pursue his amendment offered earlier in the meeting, and Sen. Pomeroy said that he would not after having heard Mr. Holt's explanation of the credit union's amendment.

Sen. Karr suggested that the amendment be put in another sentence in the bill in an outline form as staff had suggested to Sen. Pomeroy earlier in the discussion. It was the consensus of the committee to do so and to also include the amendment offered by Mr. Umholtz to change "surviving" to "continuing". The chairman said that since he saw some concerns in the committee about the membership voting situation, the bill would be worked at a later time.

The chairman called the committee's attention to a balloon of SB 528 which had been prepared by staff as requested. (See Attachment II.) Staff noted that "corporation" had been used where it had been suggested at a previous meeting that perhaps "institution" could be used.

Sen. Werts noted that lines 46 and 29 should be amended by adding "or a bank and a corporation" as was done in line 27, and staff agreed.

Sen. Werts made a motion to adopt the amendments offered to SB 528 and to make the suggested changes. Sen. Pomeroy seconded the motion, and it carried.

Sen. Pomeroy made a motion to change "four" to "three" in line 42 of SB 528. Sen. Werts seconded the motion, and it carried.

Sen. Pomeroy made a motion to report SB 528 favorably as amended. Sen. Karr seconded the motion, and it carried.

The meeting was adjourned.

SENATE COMMITTEE

ON

COMMERCIAL AND FINANCIAL INSTITUTIONS

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
2-9-84	JOHN B. RUCKEN	Topeka	KSOCU
2-9-84	MARVIN UMBOLTZ	Topeka	KCU
2-9-84	JIM HOLT	Valley Center	KCU
"	Jerel Wright	Topeka	KCU
"	PHIL ANDERSON	—	BUDGET DW
"	EUGENE R. HEGHRTY	✓	BANK DEPT
	Carl R Sandition	✓	K.

TESTIMONY ON S.B. 559

Presented to the
SENATE COMMITTEE ON
COMMERCIAL AND FINANCIAL INSTITUTIONS

February 9, 1984
by the

KANSAS CREDIT UNION LEAGUE

Mr. Chairman, members of the Committee:

Marvin Umbholtz
I am ~~Jim Holt~~, Executive Vice President of the Kansas Credit Union League.

I appreciate having the opportunity to appear before the Committee to speak in support of S.B. 559. The bill amends two sections of the Kansas Credit Union Act.

The proposed amendments to both sections are designed to place in the Kansas Credit Union Act certain authorities currently provided to Federal Credit Unions in the federal law. The amendments are:

- Section 1. Amend K.S.A. 1983 Supp. 17-2204: to allow a credit union to receive payments on shares, share certificates and other accounts from the National Credit Union Central Liquidity Facility (CLF) and to invest in the capital stock of the CLF.
- Section 2. Amend K.S.A. 1983 Supp. 17-2228: to streamline the credit union merger procedure by establishing a more reasonable membership vote participation requirement. This amendment will serve the additional purpose of removing interpretation questions inherent in the existing language.

CENTRAL LIQUIDITY FACILITY AMENDMENT

The CLF is operated by the National Credit Union Administration (NCUA) which regulates federally chartered credit unions and administers the federal share insurance program. The CLF serves as the liquidity lending tool of the NCUA and supports its other functions (examining and insuring credit unions). The CLF's objective is to facilitate a stable credit union system by providing a source of funds to assist a credit union in dealing with demands on its liquidity and for stabilization assistance in special circumstances.

Attachment I

At the request of KCUL and its member credit unions last October, the CU Administrator and the CU Council approved a "special order" authority pursuant to K.S.A. 1983 Supp. 17-2244. This is the statute which allows the CU Administrator to grant "federal conformity authorities" to state-chartered credit unions. (See Attachment 1.) The request was made to ensure equity between state and federal charters if the need arose prior to the legislative session.

Although KCUL believes that state credit unions have authority under the existing law's "incidental powers" section (See page 3 of the bill, starting on line 0091). We have included this specific authorization language found in new subsection (13) starting on line 0096, (page 3), to codify this conformity provision consistent with our past practice.

The CU Administrator and Council indicate that specific statutory language is desirable for this important relationship with the CLF and the National Credit Union Administration and we concur.

Please be advised that in requesting new subsection (13), KCUL has added the language in the middle of line 0101 which reads: "...and any other accounts of the credit union...". This does not appear in the federal language. This is anticipatory language designed to preclude the need for future amendments which might be required if the CLF changes its investment authorities and practices.

CU MERGER VOTE PARTICIPATION CLARIFIER

The amendment found in Section 2 of the bill on line 0113, page 3, is designed to remove a statutory interpretation problem identified by representatives of several of our member credit unions.

Some questions have been raised concerning the interpretation of K.S.A. 1983 Supp. 17-2228, the Kansas CU Act merger statute, last amended in 1982 (L. 1982, ch. 102, sec. 8). The statute can be interpreted to mean that when a

membership vote on a merger plan (whether by written mail ballot or in person at a meeting) is held, the voting results are valid if at least 10% of the members participate in the vote, or it can be interpreted to mean that 10% participation is required for an in-person meeting, but that a full majority of the total membership must approve the merger if a mail ballot vote is used.

The confusion exists because of the modifying sentence found on line 0114 which is stricken in this bill. When read together with (starting on line 0112) "...or by the affirmative vote in writing of a majority...", a dilemma is created. After all, a majority is "...at least 10%...". This did not appear to be the intent of the House Commercial and Financial Institutions Committee in 1982 when it added this amendment to 1982 H.B. 2753, a ten section measure designed to modernize portions of the Kansas CU Act.

While the interpretation problem identified above first focused our attention on this statute, the amendment in S.B. 559 takes an additional step. It brings the state law's membership voting participation requirement in line with the requirement governing federal credit unions. 12 C.F.R. 708.7 (b) reads:

"(b) The merger proposal of a merging Federal credit union must be approved by affirmative vote of a majority of the members of the credit union who vote on the proposal."

SUMMARY

KCUL asks that this Committee act favorable on .S.B. 599. Its passage will (1) provide state-chartered credit unions with unquestioned authority to participate in the programs of the Central Liquidity Facility, and (2) streamline the credit union merger procedure by making it clear that those members who participate in a merger plan vote are authorized to make a binding decision.

Thank you, for this opportunity to appear before the Committee. I will respond to questions as directed by the Chairman.

NOTICE OF AND APPLICATION FOR PERMISSION TO
ENGAGE IN ACTIVITIES AUTHORIZED UNDER FEDERAL LAW

_____ requests that the Credit Union
(Credit Union)

Administrator grant the credit union additional powers pursuant to the provisions of K.S.A. 17-2244, as amended. It is desired to keep the present powers granted in K.S.A. 17-2204, but in addition, to add the following powers granted to federal credit unions under the Federal Credit Union Act:

12 U.S.C. 1757 Powers. — "A. . . credit union shall have . . .
power . . . —

(6) to receive . . . from the [National Credit Union *]

Central Liquidity Facility . . . payments on —

(a) shares which may be issued at varying dividend
rates;

(b) share certificates which may be issued at
varying dividend rates and maturities; . . .

(7) to invest its funds . . . (J) in the capital stock of the
National Credit Union Central Liquidity Facility . . ."

* The National Credit Union Central Liquidity Facility created by Title III
of the Federal Credit Union Act (12 U.S.C. 1795, and following).

SENATE BILL No. 528

By Committee on Commercial and Financial Institutions

Attachment II

0015 AN ACT relating to banks and banking; concerning merger or
0016 consolidation of banks.

or transfer

0017 *Be it enacted by the Legislature of the State of Kansas:*

0018 Section I. Before any banks can merge or consolidate under

bank

0019 the provisions of chapter 67 of article 17 of the Kansas Statutes

with or transfer its assets and liabilities to another bank or corporation

0020 Annotated, each bank concerned in such merger or consolidation

0021 shall file, or cause to be filed, with the state banking commis-

or transfer

or corporation

0022 sioner, certified copies of all proceedings had by its directors and

0023 stockholders. The stockholders' proceedings shall show that a

0024 majority of the stockholders voted in favor of the merger or

0025 consolidation. The stockholders' proceedings shall also contain a

or transfer

0026 complete copy of the agreement made and entered into between

or a bank and a corporation

0027 the banks, with reference to such merger or consolidation.

0028 Upon the filing of the stockholders and directors' proceedings,

or transfer

0029 the commissioner shall make an investigation of each bank to

or corporation

0030 determine whether:

0031 (a) The interests of the depositors, creditors and stockholders

0032 of each bank are protected;

or corporation

0033 (b) the merger or consolidation is in the public interest; and

0034 (c) the merger or consolidation is made for legitimate pur-

or transfer

0035 poses.

0036 The commissioner's consent to or rejection of such merger or

or transfer

0037 consolidation shall be based upon such investigation. No merger

0038 or consolidation or transfer shall be made without the consent of

or transfer

0039 the commissioner. The expense of the investigation shall be paid

0040 by the banks.

or corporation

0041 Notice of the merger or consolidation shall be published at

or transfer

0042 least once each week for four consecutive weeks before or after

0043 the merger or consolidation or transfer is to become effective, at

or transfer

Atch. II

0044 the discretion of the commissioner, in a newspaper of general
0045 circulation published in a city or county in which each of the
0046 banks ~~are~~ located and a certified copy of the notice shall be filed
0047 with the commissioner.

0048 Sec. 2. This act shall take effect and be in force from and
0049 after its publication in the statute book.

or corporation is