

Approved March 27, 1987
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

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

9:00 a.m./~~p.m.~~ on March 26, 1987 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Myrta Anderson, Legislative Research
Bill Edds, Revisor of Statutes

Conferees appearing before the committee:

Martin Dickinson, Jr., Great-West Life and Annuity Insurance Company
L. M. Cornish, Kansas Life Association
Roger Viola, Security Benefit Life
Ron Todd, Kansas Insurance Department
William Kasting, Administrator, Kansas State Department of Credit Unions
Gene Swan, Boeing Employees Credit Union
Roger Dorpinghaus, Telephone Employees Credit Union
Raymond Fuller, Cessna Employees Credit Union
Francis Smith, Argentine Santa Fe Industries

The minutes of March 25 were approved.

The hearing began on HB 2123 regarding life insurance companies as to deposit of assets constituting reserves. The chairman said the essence of the bill is the new language on pages four and five. Martin Dickinson, Jr., Great-West Life and Annuity Insurance Company, testified in support of the bill. (See Attachment I.) The chairman asked if this bill were adopted, at the time it is decided to make a sale and the custodial bank is the owner, how would the Commissioner handle it. Mr. Dickinson said that at present there is no reporting until after the fact, but with the bill, the Commissioner would have a regulation for reporting. Sen. Werts had questions regarding the Commissioner having knowledge when the assets are endangered. Sen. Strick said that presently we have a check and balance with the Commissioner, but with this bill, we don't have it. Mr. Dickinson said this is correct, however, the bank is still in a trust relationship with the company.

L. M. Cornish, Kansas Life Association, testified in support of the bill saying that his association has worked with Great-West and the Commissioner on the bill. He had one request to make the effective date on publication in the Kansas Register rather than July 1 because this would save overhead as suggested by a new domestic company they have welcomed into the association located in Johnson County.

Roger Viola, Security Benefit Life, testified giving wholehearted support to the bill. He introduced Jim Woods also with SBL who had come for any questions there might be. Mr. Viola said he also supports the amendment presented today.

Sen. Werts asked what kind of receipts are to be issued and on whose order are exchange of securities to be made. Mr. Dickinson answered that the procedure will be as at present with two exceptions: (1) the sign off by the Commissioner on a sale will not be required and (2) there will be extensive regulations by the Commissioner requiring more reporting. Sen. Werts asked further if it were correct to say the Commissioner has no control over the trade of assets and has no knowledge of it before it happens and may not like it. Mr. Dickinson said this is true, however, the next report will show to the Commissioner that the company has an improper reserve asset.

Ron Todd, Kansas Insurance Department, followed with the testimony in support of HB 2123. He said the Department has reviewed this and looked at other states' laws and understands that it is an advantage to the companies to eliminate a time problem. The Department has come as close as it can in accommodating both interests in this case and tighten the regulations as much as possible. Sen. Cannon asked how many transactions

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on March 26, 1987.

the Commissioner signs off in a week or a year. Mr. Todd could not give an exact amount but said there are a lot. With this, the hearing on HB 2123 was concluded, and it was taken under advisement.

The hearing on HB 2407 dealing with the powers and duties of the Credit Union Administrator followed. William Kasting, Administrator, Kansas State Department of Credit Unions, testified in support of the bill and included with his written testimony a report relevant to the bill. (See Attachments II and III.) Mr. Kasting said he is in support of an amendment regarding the hearing process to be submitted by the Credit Union League. In his discussion of the information in Attachment III, Mr. Kasting said he could understand the problem the credit unions have with giving him this power, but he needs the authority to protect the assets of the members of the credit unions of the state of Kansas and feels he has the responsibility to do this.

Gene Swan, Boeing Employees Credit Union, was first to appear in opposition to HB 2407. (See Attachment IV.) The chairman asked if he would be in support of the amendment regarding the hearing process, and Mr. Swan said he could not support it.

Roger Dorpinghaus, Telephone Employees Credit Union, followed with testimony in opposition to SB 2407. (See Attachment V.)

Raymond Fuller, Cessna Employees Credit Union, testified further in opposition to the bill. (See Attachments VI and Fact Sheet VII.)

At this time, the chairman asked the administrator and the credit union representatives to submit any suggestions for changes they may have to the committee within the next few days.

Sen. Werts suggested that the committee consider asking for a Post Audit study and that staff be requested to prepare a comparative study of banks, saving and loans, and credit unions.

Last to testify in opposition to HB 2407 was Francis Smith, Argentine Santa Fe Industries. He said it places credit unions in the position of guilt before examination. He related an experience in his office where professional auditors were unable to discover a small loss (\$2000) over a ten year period, but it was found in a special audit; and with the passage of this bill, this could have caused him to be discharged. He feels the existing laws are strong. He expressed confidence in Mr. Kasting, but he was concerned about the actions of whomever may follow in this position with the powers of the bill.

Jim Holt of the Kansas Credit Union League had copies of suggested amendments, however, there was no time remaining to present them. The chairman said he would see that the copies would be distributed to committee members.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
3/26/87	MARTIN DICKINSON	P.O. Box 666 LAURENCE 66022	GREAT-WEST LIFE + ANNUITY
"	WARREN W. SHAW	TOPEKA, KAN.	GT WEST L + ANNU
"	Jim Woods	" "	SECURITY BENEFIT LIFE INS CO.
"	ROGER VIOLA	" "	SBL
"	Ben Todd	" "	INS. Dept.
"	DYANE NIGHTINGALE	3701 S.E. LONG, TOPEKA KS	NE KAN BELL CR. UNION
"	SUE SHEEHY	707 QUINCY " "	NE KAN BELL CR
"	Jim Holt	Topeka, KS	KCUK
"	Julie Knight	Topeka, KS	KCUK
"	L M Carnish	"	1/6 life Assoc
"	M. Ness	"	Sen Woods
"	ROGER DORPINGHANS	2704 Broadway Wichita KS	TECU

STATEMENT IN SUPPORT OF HOUSE BILL NO. 2123

The purpose of House Bill No. 2123 is to modernize Kansas law governing the procedures used by Kansas life insurance companies to invest their reserve assets. It is modeled on a similar statute enacted in Iowa in 1982 (Iowa Code Annot. Section 511.8(21)). Among states in the Midwest, Michigan, South Dakota, Wyoming, Colorado, Illinois, Nebraska, and North Dakota have all adopted similar procedures by statute or regulation. The procedure permitted by this bill is essential to permit Kansas companies to compete effectively with companies in other states.

The bill provides a more efficient procedure for use of Kansas banks as trustees for reserve assets of Kansas life insurance companies -- a practice that has been permitted for 40 years under K.S.A. 40-405. The bill would eliminate the requirement that the Department of Insurance consent in writing to each sale or exchange of trusted assets and would give the Commissioner broad authority to regulate all aspects of the trustee relationship.

The new procedure greatly simplifies the investment of reserve assets. It permits prompt and efficient execution of company orders to buy and sell instruments such as U.S. Government obligations. It eliminates the time-consuming process of obtaining signatures from the Department of Insurance as to sales or exchanges of reserve assets. During the period between a sale and final settlement of the transaction, the full value of a company's assets can be counted toward the company's reserve obligations.

The bill has no effect on the statutes that define the assets in which reserves of a Kansas company may be invested. It does not diminish the company's reserve obligations. Nor does it change the methods used to value reserve assets. It changes only the procedure used to make investments.

It is expected that Kansas companies will use the simplified trustee procedure for only a portion of their reserve assets--those as to which streamlining of the investment process is important. Therefore we expect a large portion of the reserves of Kansas companies to remain on deposit with the commissioner in accord with K.S.A. 40-404(b) through (d).

The bill was developed after full discussion with the Commissioner of Insurance and his staff. We understand the Commissioner to believe that the bill and regulations to implement it will fully protect the interests of persons insured by Kansas companies.

The bill has the full support of the 17 major Kansas life insurance companies that constitute the Kansas Life Association.

Respectfully submitted,

Martin B. Dickinson, Jr.
Member, Board of Directors
Great-West Life & Annuity Ins. Co.

Dear Mr. Chairman and Committee Members:

The Kansas State Department of Credit Unions is asking for the accompanying amendments and deletions to the Kansas Statutes governing Kansas State Chartered Credit Unions.

This is a brief explanation of changes being requested.

K.S.A. 17-2206

(B) This change would allow flexibility in the examination schedules without being in violation of the present law.

(C) This authority is necessary for the Administrator, if in his judgment the credit union is operating in an unsafe and unsound manner.

(g) This addition is to ensure that data information provided shall meet with the departments needs and be in full and fair disclosure.

K.S.A. 17-2226

(A) This addition clarifies that the approval shall be in writing.

(b) This section was added to clarify reporting methods for incidental operation cost and to place a cap on the total amount allowed.

(C) This addition was placed in the law for clarification purposes.

K.S.A. 17-2230

(b) The deletion of this portion of the present law gives authority to the Administrator to act promptly, if in his judgment this is necessary to preserve the assets of the credit union.

The last sentence added, provides for appeal process.

K.S.A. 17-2241

- (A) This amendment and changes provide that the Administrator MUST serve notice to the credit union or person(s) of their Right of Appeal to the Council, in order for any adverse action taken by the Administrator to be binding.
-

K.S.A. 17-2242

- (A) (3) This addition clarifies who has the authority to act.
-
- (b) This authority is necessary for the Administrator, if in his judgment the officials of a credit union are endangering the safety and soundness of that institution.
-
- (C) This section would allow the Administrator the needed authority to compel the credit union and others to provide records and information needed for examination relating to this section.
-

K.S.A. 17-2249

- (A) Deleting a portion of this paragraph allows the Administrator, if he deems it necessary, to take immediate action to safeguard membership shares on deposit.
- The added last sentence allows for the appeal process.
-
- (b) The explanation for this deletion would be the same as in section (A).

17-2241.

Appeals.

To BE
AMENDED
To

An appeal may be taken to the council from any finding, ruling, order, decision or the final action of the administrator by any credit union which feels aggrieved thereby. Notice of such appeal shall be filed with the chairman of the council within thirty (30) days after such findings, ruling, order, decision or other action, and a copy served upon the administrator. Such notice shall contain a brief statement of the pertinent facts upon which such appeal is grounded. The council shall fix a date, time and place for hearing said appeal, and shall notify the credit union or its attorney of record thereof at least thirty (30) days prior to the date of said hearing.

History: (L. 1968, ch. 160, sec. 27; March 26.)

Sec. 5. K.S.A. 172241 is hereby amended to read as follows:

17-2241. An appeal may be taken to the council from any finding, ruling, order, decision or the final action of the administrator by any credit union or person who feels aggrieved thereby. In order for any finding, ruling, order, decision or final action of the administrator to be binding on a credit union or person, such finding, ruling, order, decision or final action must be accompanied by a notice of the affected credit union or person's right to appeal such action to the council. Notice of such appeal shall be filed with the chairman of the council within thirty (30) days after such findings, ruling, order, decision or other action, and a copy served upon the administrator. Such notice shall contain a brief statement of the pertinent facts upon which such appeal is grounded. ~~The council shall fix a date, time and place for hearing said appeal.~~ Upon receipt of a timely appeal, the council shall conduct a hearing thereon in accordance with the provisions of the Kansas administrative procedures act and shall notify the credit union, person or its their attorney of record thereof at least thirty (30) days prior to the date of said hearing. All decisions of the council arising out of an appeal shall be final and binding on all parties involved in such appeal.

0084 sion of the business and property of the credit union and retain
0085 possession until such time as the administrator may permit it to
0086 resume business or its affairs are finally liquidated.

0087 (e) Each credit union shall pay to the administrator a fee for
0088 examination, established in accordance with this subsection.
0089 Prior to June 1, of each year, the administrator, with the approval
0090 of the credit union council, shall establish such annual fees as
0091 the administrator determines to be sufficient to meet the budget
0092 requirements of the department of credit unions for the fiscal
0093 year beginning July 1. Such fees shall be due and payable 30
0094 days after receipt of billing from the department of credit unions.

0095 (f) For a central credit union located in the state of Kansas
0096 and under the supervision of the administrator, in which all
0097 credit unions in the state of Kansas are eligible for membership,
0098 the administrator may accept an audit report by a certified public
0099 accountant in lieu of the credit union departmental examination
0100 of such credit union. If the administrator accepts a certified
0101 public accountant audit in lieu of the administrator's examina-
0102 tion of such a central credit union, the administrator may assess
0103 such central credit union a fee established in accordance with
0104 subsection (e).

0105 (g) No credit union may purchase, rent, lease or otherwise
0106 obtain or contract for data processing service or equipment
0107 until the person or business offering such service or equipment
0108 has furnished certification that such service or equipment can
0109 produce the minimum accounts and reports required by the
0110 administrator. The administrator shall furnish a listing of these
0111 minimum accounts and reports to any person or business upon
0112 request.

*This deleted
SECTION, AMENDED
AND REQUESTED
TO BE RECONSIDERED*

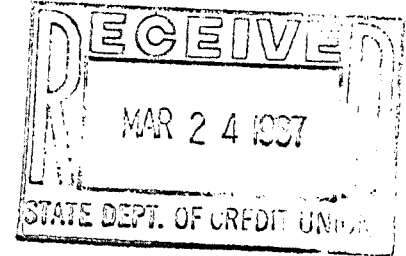
(g) Any agreement between a credit union and a person or business for the furnishing of data processing service or software whether by purchase, rental, lease or otherwise must include certification that such service or software will produce the minimum accounts and reports required by the administrator unless the credit union already possesses the capability to produce such reports and such capability is not being replaced by the new agreement. The administrator shall furnish a listing of the minimum requirements for accounts and reports to any person or business upon request. Any agreement which does not contain the certification required by this subsection shall be null and void at the option of the credit union.

**MUTUAL
GUARANTY
CORPORATION**

P.O. BOX 21429
CHATTANOOGA, TN 37421

March 23, 1987

The Honorable William A. Kasting
Administrator
Kansas State Department of
Credit Unions
Landon State Office Building
900 Jackson, Suite 858
Topeka, Kansas 66612



Re: Support for State of Kansas House Bill - 2407

Dear Mr. Kasting:

I am aware of the content and reasons for introducing amendments to the authority of the administrator of credit unions in the state of Kansas through House Bill 2407. I strongly recommend passage of that bill. My experience clearly indicates that the timely, direct action on the part of the administrator contemplated by this bill can and will save significant sums of money for Kansas citizens and their credit unions. Additionally, the ability to issue cease and desist orders and remove officials with cause and protection as outlined in the bill can save individual institutions by reducing the requirements for liquidation and forced merger.

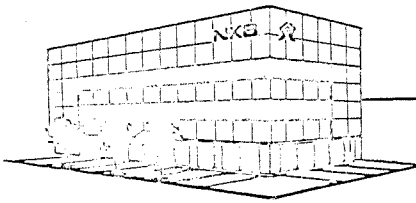
The powers and authority granted by the amendments in HB-2407 are similar to those available to the credit union regulators in many states. The provisions of HB-2407 are compatible with sections of the Model Credit Union Act, drafted and distributed by the Credit Union National Association, the national trade association representing over 90 percent of the credit unions in the United States. The federal regulatory authorities over federally chartered credit unions domiciled in Kansas have had such authority for some time, and a bill currently before Congress provides even greater authority to protect institutions and citizens against unsafe and unsound practices and the violation of rules, regulations and statutory requirements.

I would like to join Kansas credit unions in support of HB-2407. The bottom line of this bill is improved strength and confidence in an important group of financial institutions serving Kansas citizens.

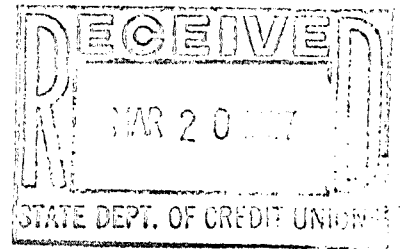
Sincerely,

A handwritten signature in dark ink, appearing to read "Tom Gaines". The signature is fluid and cursive, written over a light background.

Thomas F. Gaines, III
President



HOME OFFICE - TOPEKA, KANSAS



March 19, 1987

Mr. Raymond Fuller, General Manager
Cessna Employees Credit Union
5800 East Pawnee
Wichita, Kansas 67218

Dear Mr. Fuller,

Thank you for your memo dated March 16, 1987 regarding your concerns about House Bill # 2407. I appreciate your viewpoints.

We had already received information regarding # 2407 from the Kansas Credit Union League. They keep us as up to date as possible on credit union related legislation, which I personally feel is the League's most important area of concentration.

There are two parts of Section 4, Subsection (b) which we think prevents any administrator from basing his actions on personal bias. First, the administrator must have determined from "clear and convincing evidence" there is a probability that losses have occurred or will occur if no action is taken. An administrator who removes a person from his or her credit union duties without just cause will no doubt be inviting a lawsuit, which in all probability will be decided against the Department and the administrator.

Second, as with many laws of this nature, it provides an appeals procedure pursuant to KSA 17-2241. That section allows appeals to the Credit Union Council for any ruling made by the administrator. In other words, the Department wrote a protection clause into its own bill.

We feel with those two areas being addressed in the bill, our credit union is protected from any biased decisions made by the current or future administrators. Also on the positive side, Subsection (b) could possibly prevent any further losses to a credit union already experiencing difficulties.

Attachment II
Senate F I & I - 3/26/87

NeKan Bell Credit Union

7th & QUINCY

TOPEKA, KANSAS 66603

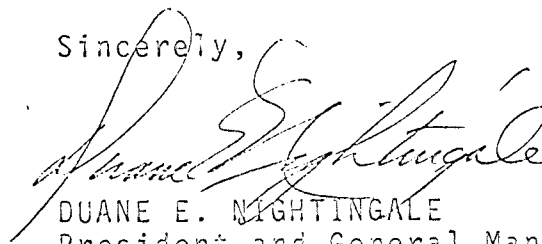
(913) 235-9551



Mr. Raymond Fuller
March 19, 1987
Page 2

Again, thank you for your letter. Its through opposing viewpoints brought together with cooperation that we have molded our government into the best in the world.

Sincerely,



DUANE E. NIGHTINGALE
President and General Manager

cc: KCULA
Copy

Honorable Fletcher Bell
Attn: Mr. Stacy N. Moorhead
January 23, 1987
Page Three

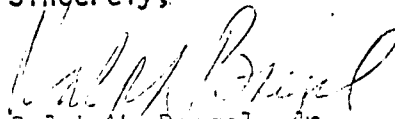
Kansas basic bond experience has been as follows through December 31, 1985.
This is for all credit unions. There are currently 163 state chartered and 46
federally chartered Kansas credit unions insured by CUMIS Insurance Society.

<u>Year</u>	<u>Earned Premiums</u>	<u>Incurred Losses</u>	<u>Loss Ratio</u>
1977	\$111,995	\$ 239,528	213.9%
1978	133,691	60,110	45.0
1979	141,632	351,614	248.3
1980	169,857	245,973	144.8
1981	236,053	42,029	17.8
1982	309,439	353,447	114.2
1983	410,085	667,933	162.9
1984	526,747	1,968,280	373.7
1985	599,514	433,825	72.4

This cover letter and Exhibit F (manual pages) are submitted in duplicate. We
would appreciate your return of one copy of each, marked with your approval indication,
in the enclosed postage paid self-addressed envelope.

Thank you very much.

Sincerely,



Ralph W. Boegel, Jr.
Assistant Director

Government & Industry Relations Division

RWB:jj
opeiu-39
Enclosures

Copy to: Mr. William Kasting, Credit Union Administrator
State Department of Credit Unions
503 Kansas Avenue, Room 342
Topeka, Kansas 66603

Attachment III
Senate F I & I - 3/26/87

TO: Members of The Committee for Commercial and Financial
Institutions
State of Kansas, Senate

FROM: Gene Swan, Chief Executive Officer
Wichita Boeing Employees Credit Union
3801 S. Oliver
Wichita, Kansas 67210

RE: House Bill 2407

Dear Committee Members:

My name is Gene Swan and I am employed by the Wichita Boeing Employees Credit Union as its Chief Executive Officer. I am responsible for the overall management and operation of the Credit Union which currently has in excess of \$75 million in total assets and more than 17,000 members.

With permission of the Board of Directors of my Credit Union, I wish to express to you several points of opposition to House Bill 2407, a proposed Bill relating to Credit Unions.

First, I draw your attention to the proposed amendment to K.S.A. 17-2206(c). The existing law provides that the Credit Union Administrator may order the discontinuance of any violation of law on the part of a Credit Union after a hearing or an opportunity for a hearing has been given to the Credit Union.

The proposed amendment would provide that the Administrator may issue a "Cease and Desist" order summarily and without a hearing or an opportunity to be heard on the part of the Credit Union and without notice or knowledge of any action in this regard that the Administrator might take. The only requirement appears to be that the Administrator must form the opinion that he or she has "clear and convincing" evidence that a Credit Union is engaged, or is about to engage, in an unsafe or unsound practice, or is violating, has violated or is about to violate a law, rule, regulation or condition imposed by the Administrator.

Although I would not completely oppose the addition to this statute the power and authority of the Administrator, after an appropriate hearing, to order the discontinuance of an "unsafe or unsound practice", I must vehemently oppose the addition in this law of authority on the part of the Administrator to take such action without notice or opportunity to be heard.

Attachment IV
Senate F I & I - 3/26/87

The proposed amendment would place unrestrained authority on the part of the Administrator which would greatly enhance the potential for abuse of the power conferred on that office. It would clearly seem to violate our fundamental democratic principles if not actually violate our State and Federal Constitutions which guarantee the rights of due process and a fair hearing. Conversely, the proposed law would place an unfair burden on the part of the Administrator who may be pressed to make severe, unsafe and unsound decisions without having sufficient knowledge of the facts and information from which to form the basis of his or her decisions.

In brief, there must be preserved in the law a fair and impartial fact finding process which the current law provides. The proposed law will permit profound and important decisions and orders to be made on the part of the Administrator based only on hearsay, rumor, or false information.

Second, the addition to K.S.A. 17-2242 of subsection (b), proposes to empower the Administrator to indiscriminately and summarily remove from office any credit union official or employee and to deny them access and participation in the affairs of the Credit Union in the sole and absolute discretion of the Administrator without notice or hearing or an opportunity to be heard. The proposed provision would even prevent or deny the opportunity for an individual, as opposed to the Credit Union itself, of the right to appeal to the Council as provided by K.S.A. 17-2241.

This addition to the existing law allows the total circumvention of subsection (a) of the existing law which, of course, provides an orderly and legal process for the removal of officials and employees of a Credit Union. The constitutional guarantees of due process and freedom of contract (to work) appear to be adequately protected.

The power of an Administrator, acting unilaterally and without the safeguards of a fair hearing and an appropriate fact finding process, can only heighten the risk of serious mistakes and unjust actions which will in certain cases result in profound and serious injustices to individuals who may have otherwise performed their jobs responsibly and correctly.

I would further state the following:

1. The proposed amendment to the existing statute seems to center itself in removing the right of notice and a fair hearing with respect to all actions that may be taken by the Credit Union Administrator.

2. The right to notice and a fair hearing seem to be

fundamental in all aspects of our democratic form of government.

3. These principles are just as important to institutions such as Credit Unions and other corporate entities as they are to individuals.

4. To concentrate unilateral and unrestrained authority in the Credit Union Administrator without the mere safeguards and requirement of notice and hearing can only lead to intimidation or the possibility of intimidation and result in fear and ineffectiveness in the administration and operation of the Credit Union industry.

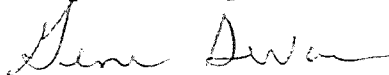
5. Some autonomy in the operation of Credit Unions as well as all forms of business must be preserved. Otherwise, free enterprise and fair competition will be eroded or, in the extreme, prevented altogether.

6. The existing law embodies all the authority, control and safeguards against violations of law and unsound practices as are contemplated by the proposed amendments. The difference in the current law and the proposals, however, is simply the requirement of a fair and impartial fact finding process before the Administrator may issue an order which can have profound and perhaps deleterious effects upon the operation of a Credit Union and the rights of its members. The preservation of this simple fact finding process would seem to better protect the interest of the consuming public than the amendments and additions proposed in this Bill.

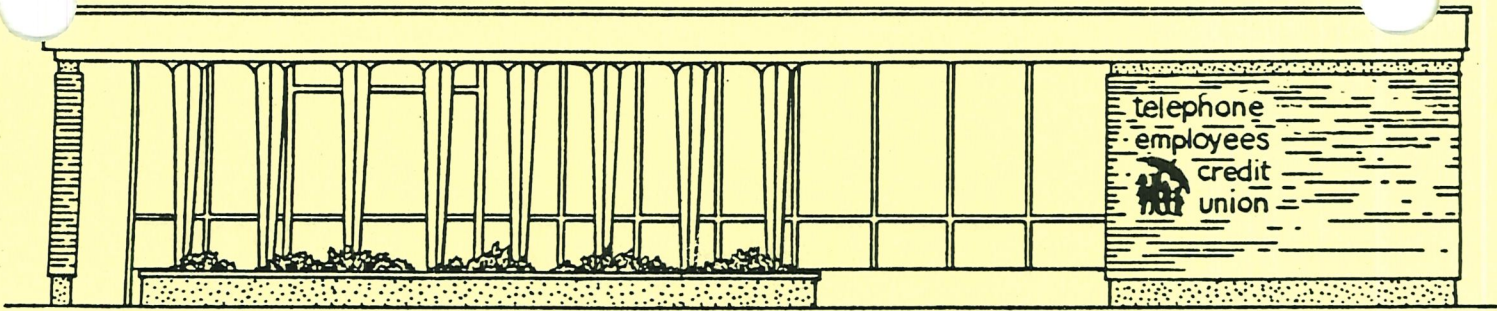
The relationship between the current State Credit Union Administrator, and Wichita Boeing Employees Credit Union and myself has always been excellent. My opposition to this bill is not intended as a reflection in any way on Mr. Kasting and the excellent job he is doing. However, I am concerned about giving such absolute power to one individual without the safeguards of a fair and impartial hearing.

I truly hope my views, which are spoken from the position of a Credit Union Manager, will be helpful in your consideration of this Bill. I would respectfully encourage you to vote against this bill for passage for the reasons and concerns expressed above.

Respectfully,



Gene Swan, Chief Executive Officer
Wichita Boeing Employees Credit Union
3801 S. Oliver
Wichita, Kansas 67210



Telephone Employees

270 north broadway / wichita, ks 67202-2381

CREDIT UNION

phone 316-263-5756

March 26, 1987

HB 2407

From: Roger Dorpinghaus
President
Telephone Employees Credit Union
Wichita, Kansas

Section 1 K.S.A. 172206 part B.

Increasing the State requirement by 50% to an 18 month schedule would only delay the time before discovery of any shielded problems in a credit union's stability. The department has continually for the past several years (at least back to FY ending in 1980) completed all of the examinations within a 12 month calander year.

I believe that it would be unnessary and detrimental to the credit unions in Kansas for us to allow such a change.

Section 1 K.S.A. 17-2206 part c ;
Section 3. K.S.A. 1986 Supp. 172230 part b;
Section 4. K.S.A. 17-2242 part b & c;
Section 5. K.S.A. 17-2249 part a & b;

The changes reflected in these sections are excessive, too general (unsafe & unsound), and too powerful for one individual to have. The changes in the law would make a person guilty by implication of one person (Administrator) until proven innocent at a much later date. The wording of unsafe & unsound practice is too broad of term and should be removed and replaced with violation of law.

Of course the best result would be to leave the present statues intact as presently written and not allow the proposed changes to occure.

Section 2. K.S.A. 1986 Supp. 17-2226 part b;

This section should be deleted because it is more restrictive than part a and is unnessary.

A handwritten signature in cursive script, appearing to read "Roger Dorpinghaus".

Attachment V
Senate F I & I - 3/16/87

CESSNA EMPLOYEES CREDIT UNION

5800 EAST PAWNEE

WICHITA, KANSAS 67218

March 26, 1987

Testimony to: Kansas Senate Committee on
Financial Institutions and Insurance

SUBJECT: HOUSE BILL 2407

My name is Raymond Fuller, General Manager of Cessna Employees Credit union - Wichita, Kansas. I have been associated with the Cessna Employees Credit Union for almost 30 years and have served 22 of these years as a director, manager or company representative to the credit union. The Cessna Employees Credit Union has been a Kansas Chartered Credit Union for 45 years and is Federally insured by NCUA.

House Bill 2407 ~~bill~~ was submitted to the house by the Kansas Administrator. Most Kansas Credit Unions had no knowledge of House Bill #2407 until shortly before it went to the House Committee. Why the bill was not submitted to Kansas Credit Unions for comment and approval is obvious. The Kansas credit unions would reject House Bill 2407.

The Federal regulatory agency, NCUA, publishes recommended changes, additions or deletions to the Federal law and asks for comments from Federal Credit Unions. What is presently taking place in regard to changes in Kansas credit union law is beyond belief. Kansas Credit Unions should be able to voice an opinion or recommended changes through the Kansas Credit Union Council but unfortunately, the Kansas Credit

Page 2

Union Council seems to be without leadership and appears to be controlled by outside factions. There has been a resignation from the Kansas Credit Union Council in the past year for this very reason.

On March 16, 1987, just a few days ago, I personally mailed to most Kansas Chartered Credit Unions a copy of House Bill 2407 and an explanation of what it means to Kansas Credit Unions. The requested changes in House Bill 2407 are very serious changes and should be reviewed by Kansas Credit Unions.

The present credit union law provides the administrator all the authority necessary to carry out the administrative objectives of the department and yet does not make credit unions subordinate or subject to the personal bias and abuse that is sometimes attempted. The proposed changes are nothing more than what can be termed as a bill titled "the capital punishment of credit union management". Effective regulation to the administrator means abuse and suspension of management.

Furthermore, I am aware of two cases where the administrator attempted to use his authority to harass or abuse credit unions. I am sure we can find others.

I interviewed a bonding company's agent for the purpose of determining recent credit union failures. In 1986, Kansas had only three credit union that were insolvent and these were merged with other credit unions. If you will observe the Bonding Company's statements in the fact sheet attached

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to my testimony, one statement says "failure to take action by the credit union administrator when notified by examiners of existing problems... is a problem. The administrator and the examiners sometimes know far in advance that a credit union is going to fail if action is not taken."

Section (b) of K.S.A. 17-2242 states "As an alternative to and notwithstanding subsection (a), the administrator may suspend from office and prohibit from further participation in any manner in the conduct of the affairs of a credit union any director, officer, committee member or employee ..." The credit union may appeal the order pursuant to K.S.A. 17-2241, and amendments thereto".

In the supplemental note on House Bill No. 2407. The administrator tries to mislead us in regard to the right of appeal. This appeal is after the administrator has physically removed the manager or board from the credit union, access to the records is not permitted and funds that might be used in their defense is not available. Secondly, the administrator indicates he is a person in shining armor and throws a protective shield around credit union members. The credit union is owned by the members and in this case the protection needed is protection from the administrator. This is why we are opposing House Bill No.2407.

Most of the Kansas Credit Unions are on the outside looking

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in and do not even realize what the current situation is. Those of us who found out, by accident, about what was going on, are reacting to the situation.

Why do we need the provisions in House Bill No. 2407? This has never been explained to Kansas Credit Unions. According to a large bonding company, we do not use what we have in the current law. So why additional authority? An ego trip?

A large number of calls have been received in reply to the letter mailed to all Kansas Chartered Credit Unions. These managers are angry and confused about what to do. A large number stated that the appointment of the administrator was opposed by them, but since the appointment was controlled by the governor, he was appointed anyway.

This is my first involvement in a situation of this type. From my personal research of the Administrator, the Kansas Credit Union Council and the Kansas Credit Union League, there appears to be big problems with the administrator, the Credit Council and other related, but nongovernmental groups. I would recommend that an investigation be made of the Administrator's office and the Kansas Credit Union Council by the Kansas Attorney General's office. There should be no passage of House Bill No. 2407 at this time because there is a big question about the integrity of those offices, and the effect the bill will have on 163 Kansas Credit Unions and many

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thousands of Kansas credit union members.

Mr. Chairman, I want to thank you and your committee for permitting me to appear before you today and present our objection to House Bill 2407.

If there are any questions, I will try to answer them at this time.

AUDIT323

CESSNA EMPLOYEES CREDIT UNION
5800 EAST PAWNEE
WICHITA, KANSAS 67218

MARCH 26, 1987

FACT SHEET

NCUA - An agency of the Federal Government that issues credit union charters and audits Federal credit unions

NCUSIF - An agency of the Federal Government that insures the various accounts (share, IRA etc) of a credit union (Federal & State).

MGC - Mutual Guaranty Company - A private company that insures the various accounts of Credit Unions.

CHARTER - There are two type of credit union charters issued in the State of Kansas. One type is a Federal charter and the other is a State charter.

BOND - A surety bond of the type that covers em

ployees and officers of the credit union. This bond may also cover litigations against the credit union.

FEDERAL CREDIT UNION - A Federal Credit Union holds a Federal charter to operate their credit union under Federal laws. All Federal Credit Unions must carry Federal insurance (NCUSIF) against the members accounts. There are both Federal Credit Union auditors an NCUSIF auditors.

KANSAS STATE CHARTERED CREDIT UNION - A Kansas chartered credit union holds a Kansas State charter and operates its credit union in accordance with state laws. Although State chartered credit unions must have share insurance (K.S.A.17-2246), they have a choice of applying for Federal Insurance (NCUSIF) or insurance of a guaranty corporation approved by the administrator.

ADMINISTRATION AND AUDITING OF CREDIT UNIONS (FEDERAL & STATE) IN KANSAS - Federal credit unions are administered by NCUA and Kansas Credit Unions are administered by Kansas Department of Credit Unions. Corrective action procedures are basically the same for both Federal and State Credit unions and is goverened by law.

REMOVAL OF CREDIT UNION OFFICERS AND EMPLOYEES - Regardless of the type of charter a credit union has, no administrator

has authority to directly remove an officer or employee from a credit union without due process of law. The administrator can issue cease and desist orders. Removal is usually carried out through the insuring agency. Upon notification by the auditing agency, the insuring agency takes over and a number of people become involved in the decision process. Public auditors and accountants can also be called in to make an audit.

REMOVAL OF BANK AND SAVINGS AND LOAN EMPLOYEES AND OFFICERS -

If an audit indicates a problem or the unit is insolvent, the commissioner will issue a cease & desist order or the FDIC or FSLIC is notified and the insuring agency auditors take over. Here again, a number of people become involved in the decision making process.

KANSAS CREDIT UNION FAILURES - Kansas had the following credit union liquidations and mergers in the years indicated. All figures were taken from reports submitted to the Internal Revenue Service by the Kansas Credit Union League except for the year 1986.

1983 175 credit unions included in the report
One (1) credit union merged 4/6/83
One (1) credit union liquidated 10/5/83

1984 170 credit unions included in the report

six (6) credit unions liquidated

1985 165 credit unions included in the report

One credit union liquidated (voluntary)

Four credit unions liquidated

1986 The 1986 report is taken from research. The 86 report will be prepared and sent to the IRS by April 15, 1987.

The 1986 report will include 163 credit unions

Three (3) credit unions liquidated & merged into other credit unions

One new credit union added (Service Credit Union)

BONDING COMPANY STATEMENTS AS TO WHY CREDIT UNIONS FAIL:

Due to the heavy financial growth of credit unions in the past few years, some credit unions have out grown their management capabilities. These employees are not capable of maintaining adequate records, make good investments or run the credit union in a satisfactory manner.

Failure to take action by the credit union administrator when notified by examiners of existing problems ...is a problem. The Administrator and examiners sometimes know far in advance that the credit union is going to fail if action is not

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taken.

The making of bad loans (new loans) and folding interest income into old loans because of payment problems has caused a number of loan failures.

Bond claims for the State of Kansas included BOTH State and Federal Credit unions. Bond claims can be against officers, employees and directors, and litigation claims against the credit union. THESE ARE NOT CLAIMS FOR SHARE INSURANCE.

REASONS FOR CORRECTIVE ACTION ORDERS ISSUED BY THE ADMINISTRATOR TO CREDIT UNIONS:

1. Two or more accounting records are out of balance
2. Excessive accounts on delinquency report
3. Bank statements are not reconciled
4. Less than a 4% dividend
5. State or Federal law violations
6. Weak management, directors, or employees
7. Other management problems