

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Representative Susan Roenbaugh at _____
Chairperson

9:00 a.m./~~p.m.~~ on January 31, 1990 in room 423-S of the Capitol.

All members were present ~~except~~:

Committee staff present: Raney Gilliland, Legislative Research
Lynne Holt, Legislative Research
Jill Wolters, Revisor of Statutes Office
Pat Brunton, Committee Secretary

Conferees appearing before the committee: Alan Alderson, Attorney, Western Retail
Implement & Hardware Assn. and Kansas
Lumber Dealers Association
Bud Grant, Vice President, KCCI and Kansas
Retail Council
Jim Ludwig, KPL Gas Service
Edwin A. Van Petten, Deputy Attorney General
Stan Lind, Kansas Assn. of Financial Services
James W. Clark, Kansas County & District
Attorneys Association
Jerel Wright, Kansas Credit Union League

Raney Gilliland gave a brief staff review of HB 2581 after Chairman Roenbaugh opened hearings on the bill. HB 2581 is an act concerning worthless and insufficient checks.

Alan Alderson, an attorney representing both the Western Retail Implement and Hardware Association and the Mid-America Lumbermens Association appeared in support of HB 2581. Mr. Alderson urged the committee to make favorable recommendation of HB 2581. (Attachment I).

Bud Grant, appearing on behalf of the Kansas Chamber of Commerce and Industry and the Kansas Retail Council, urged support of the committee for passage of HB 2581. (Attachment II). Questions and answers followed Mr. Grant's testimony.

Jim Ludwig, KPL Gas Service, testified in support of the committee's recommendations to strengthen the state's worthless check laws. He urged the committee to approve HB 2581 for passage. (Attachment III). Questions and answers followed.

Ed Van Petten of the Attorney General's Office testified in support of HB 2581. He stated this bill clarifies the recovery a victim can receive in a civil action, as well as includes the payment of a pre-existing debt within the definition of "giving a worthless check". (Attachment IV).

Stan Lind, Kansas Association of Financial Services, testified in support of HB 2581 with proposed amendments. (Attachment V). Questions and answers followed the testimony.

Jim Clark, Kansas County & District Attorneys Association, testified on HB 2581 with a proposed amendment providing for fees for collection of worthless checks, orders or drafts. (Attachment VI). Questions and answers followed Mr. Clark's testimony.

Jerel Wright, Kansas Credit Union League, testified in support of HB 2581. He stated HB 2581 strengthens a credit union's ability to collect an insufficient funds check by increasing the ways a credit union may pursue collection of a worthless check. (Attachment VII).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS,
room 423-S, Statehouse, at 9:00 a.m./~~p.m.~~ on January 31, 1990

Hearings on HB 2581 were closed.

Representative Amos moved and Representative Jenkins seconded, to approve minutes of January 17, 18, 23, 24 and 25. The motion carried.

The meeting was adjourned at 10:17 a.m.

The next meeting of the House Agriculture and Small Business Committee will be Thursday, February 1, 1990, at 9:00 a.m. in Room 423-S.

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MEMORANDUM

TO: House Committee on Agriculture and Small Business
FROM: Alan F. Alderson, Attorney for Western Retail
Implement and Hardware Association and
The Kansas Lumber Dealers Association
RE: House Bill No. 2581
DATE: January 31, 1990

I am Alan Alderson, an attorney representing both the Western Retail Implement and Hardware Association and the Mid-America Lumbermens Association (Kansas Lumber Dealers). On behalf of both of these associations, I am appearing in support of House Bill No. 2581.

The Western Retail Implement and Hardware Association represents approximately 300 farm equipment dealers and 270 hardware retailers in the state of Kansas. The Mid-America Lumbermens Association represents approximately 300 lumber dealers in the state of Kansas. Both associations want to continue to be on record as strongly supporting changes in the Kansas civil and criminal statutes regarding the penalties for issuance of worthless checks.

In Kansas, those retailers with in-house credit lines are particularly susceptible to the problems in the current Kansas bad check laws. Those laws are of little help when a bad check is written to satisfy a pre-existing debt. We particularly commend the interim committee for the elimination of the distinction between consumer credit sales and loans and other debts and also for the elimination of the time limitation in existing law.

It would appear that the majority of the amendments made during the interim committee will substantially strengthen the retailers' ability to collect debts created by worthless checks. Both associations for whom I am appearing today represent large numbers of retailers in the state of Missouri, as well as the state of Kansas. The Missouri member retailers know that Missouri's law, which includes penalties for bad checks written on pre-existing debts, has worked well to provide retailers with a remedy for this situation. We would urge you to maintain all portions of the legislation which would strengthen the Kansas retailers' ability to collect on checks written for pre-existing debts. Hopefully, the corresponding changes in the criminal statute will serve to reduce the number of these checks that are written in the first place.

The Western Retail Implement and Hardware Association and the Mid-America Lumbermens Association urge this Committee to make favorable recommendation of House Bill No. 2581. Thank you for this opportunity to appear and testify today.

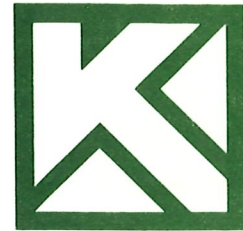
AG: SB
1-31-90

ATTACHMENT I

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry

500 Bank IV Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321



A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

HB 2581

January 31, 1990

KANSAS CHAMBER OF COMMERCE AND INDUSTRY
Testimony Before the
House Committee on Agriculture and Small Business
by
Bud Grant
Vice President

Madam Chairperson and members of the Committee:

My name is Bud Grant, and on behalf of the Kansas Chamber of Commerce and Industry and the Kansas Retail Council, thank you for the opportunity of appearing before you today in support of HB 2581.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

Ag. & SB
1-31-90
ATTACHMENT II

You will recall that we appeared before you last year in support of similar legislation. HB 2068 addresses the same problem and remains in your committee today. It was the committee's decision last session to delay action on HB 2068 and to request an interim study of the issue to determine if changes were needed. That interim study determined changes were needed and HB 2581 is its result.

In 1986, the Kansas Legislature enacted legislation authorizing civil remedies, in addition to the criminal remedies already available, for those seeking relief from losses suffered from worthless checks. It has made a difference. You have heard since the enactment of that legislation from the food dealers and others, testifying that the incidence of bad checks has been reduced by that legislative action. Retailers are now urging that you extend the same remedies to worthless checks written in payment of a pre-existing debt. We are confident that they will again make a difference.

Statistics show that the problem of bad checks in America is reaching epidemic proportions. According to the Fraud Information Bureau, over 425 million bad checks are returned in the United States each year and 62% of these are not made good on deposit. This is a 200% increase over the last five years. The U.S. Department of Commerce estimates that annual losses to business due to bad checks now exceed \$1.5 billion. These losses are reflected in the prices you and I pay for the products we buy.

Kansas has addressed part of the problem. We urge that you address the rest of the problem by extending the availability of civil remedies to worthless checks given in payment of a pre-existing debt.

The following is a quote from a letter written to Senator Jim Allen, Chairman of the interim committee which studied this issue, from a Garden City motel employee; "This segment of the law dealing with pre-existing debt has been a thorn in my side ever since the day I took on this job. Not only do we as businessmen have to incur the expense of carrying someone on our books, but, if payment for their debt is given in the form of a worthless check, we must absorb that as well. You must infer by now that I could continue on my soap box all day on this subject. So, in closing, let me say that it is far past

time for the lawmakers of this state to remove their heads from the sand and face the fact that honest businesses are losing thousands of dollars each year because of a ludicrous law which only makes it easier for the guilty to get something for nothing."

I urge your support for passage of HB 2581 and would be pleased to attempt to answer any questions.



-Testimony-

House Agriculture and Small Business Committee
HB 2581, Concerning Worthless and Insufficient Checks

Jim Ludwig, Director of Governmental Relations

KPL Gas Service

January 31, 1990

KPL supports the 1989 Special Agriculture and Livestock Committee's recommendations to strengthen the state's worthless check laws. The interim committee's recommendations are embodied in HB 2581.

Two of the committee's most important recommendations are: (1) to make the fact itself that a check is dishonored the determinant in prosecution instead of having to prove the check-writer knew the check would "bounce;" and (2) to eliminate the bad check-writer's loophole found in the distinction between "exchange of present value" and "pre-existing debt." For purposes of collection and prosecution, the distinction is made irrelevant. We believe these changes would help realize the intent of the law, which is to deter issuance of worthless checks.

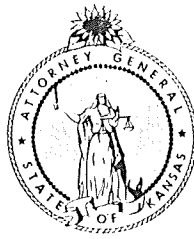
KPL receives approximately 19,200 bad checks each year, amounting to an average of \$1,152,000. Added to this is the cost of trying to collect on these checks. Although this does not represent a large percentage of KPL's total annual revenues, we are dealing with an accumulating amount

-more-

significant enough to be a factor in the overall revenue requirements of a rate case. Through a rate case, we would ultimately recover from paying customers what had been written off as bad debt. This means honest customers pay the bills of those who get away with writing bad checks.

HB 2581 would protect businesses that sell services on credit. Current law is interpreted so that a merchant who receives a bad check in return for an article of merchandise is entitled to recover the loss because an "exchange of present value" has occurred. The legal recourse may be less clear for a business that sells products or services on credit and later receives a worthless check in payment of the "pre-existing debt." KPL delivers electricity and natural gas to our customers in advance of payment. All our customers' checks may be seen as payments for pre-existing debts. If a check is bad, we have a problem. In our experience, many district and county attorneys feel that there must be an exchange of present value in order to prove "intent to defraud," which is impossible to prove in pre-existing debt cases because there is no change in the positions of the respective parties when a bad check bounces. HB 2581 corrects this problem.

We therefore urge the committee to approve HB 2581 for passage.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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ROBERT T. STEPHAN
ATTORNEY GENERAL

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TESTIMONY

DEPUTY ATTORNEY GENERAL EDWIN A. VAN PETTEN
BEFORE THE HOUSE AGRICULTURE AND SMALL BUSINESS

HOUSE BILL 2581

JANUARY 31, 1990

Attorney General Stephan and I thank you for this opportunity to address the committee in favor of House Bill 2581.

This bill clarifies the recovery a victim can receive in a civil action, as well as includes the payment of a pre-existing debt within the definition of "giving a worthless check".

It is important to note, that we are not punishing the individual for owing money or having the debt, but merely for issuing a worthless check to the businessperson on the pretext of paying that debt.

The bill, which also expands criminal prosecutions to include such payments, will give businesses the ability to recoup their losses which previously they could not do on checks paid for money owed.

AG. & SB
1-31-90
ATTACHMENT IV

This bill will provide relief in an area which business people have needed for years, and will hopefully go a long way in stopping the flood of worthless checks. The committee should realize that great expense is incurred by those in business as a result of the practice of writing worthless checks, and that business people are indeed innocent victims.

We ask that you give them the ability to recoup their losses by passing this bill.

Explanations of Proposed Amendments to H.B. 2581

A#IV

1. The addition of the reference to Section 3 of the bill is to insure that this Act will apply to pre-existing debt incurred under the Uniform Consumer Credit Code.
2. Under the present statute (K.S.A. 1989 Supp. 60-2610) which is amended by Section 1 of this bill, the phrase "service charge" is used as it appears on page 3, line 5. This amendment would make the use of the phrase "service charge" standard throughout the worthless check legislation, as opposed to using the phrase, "service costs".
3. See explanation No. 2
4. " " " "
5. " " " "
6. " " " "
7. " " " "
8. " " " "
9. In addition to the explanation of No. 2, this new subsection adds a definition of "service charge" by making specific reference to the two statutory subsections in which these charges are presently authorized.
10. See Explanations numbered 2 and 9.
11. " " " " " "
12. " " " " " "
13. " " " " " "
14. " " " " " "

AG. & SB
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ATTACHMENT V

HOUSE BILL No. 2581

By Special Committee on Agriculture and livestock

Re proposal No. 3

12-21

V-2

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AN ACT concerning worthless and insufficient checks; amending K.S.A. 16a-2-501 and K.S.A. 1989 Supp. 21-3707 and 60-2610 and repealing the existing sections.

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

Section 1. K.S.A. 1989 Supp. 60-2610 is hereby amended to read as follows: 60-2610. (a) If a person gives a worthless check, as defined by K.S.A. ~~21-3707~~ and amendments thereto subsection (g), the person shall be liable to the holder of the check for the amount of the check plus an amount equal to the greater of the following:

and by Section (3)

1

(1) Damages equal to three times the amount of the check but not exceeding the amount of the check by more than \$500; or
(2) \$100.

(b) The amounts specified by subsection (a) shall be recoverable in a civil action brought by or on behalf of the holder of the check only if: (1) Not less than ~~21~~ 14 days before commencing the action, the holder of the check made written demand on the maker or drawer for payment of the amount of the check and the incurred service costs; and (2) the maker or drawer failed to tender to the holder, prior to commencement of the action, an amount not less than the amount demanded. The written demand shall be sent by restricted mail, as defined by K.S.A. 60-103 and amendments thereto, to the person to be given notice at such person's address as it appears on such check, draft or order or to the last known address of the maker or drawer and shall include notice that, if the money is not paid within ~~21~~ 14 days, triple damages in addition to an amount of money equal to the sum of the amount of the check, the incurred court and service costs, and the costs of collection, including but not limited to reasonable attorney fees, may be incurred by the maker or drawer of the check.

charge

2

costs,

3

charge

4

(c) Subsequent to the commencement of an action under this section but prior to the hearing judgment of the court, the defendant

7-3

1 may tender to the plaintiff as satisfaction of the claim, an amount
2 of money equal to the sum of the amount of the check, the incurred
3 court ~~and service costs~~ and the costs of collection, including but not
4 limited to reasonable attorney fees.

costs, (5)

5 (d) If the court or jury determines that the failure of the de-
6 fendant to satisfy the dishonored check was due to economic hard-
7 ship, the court or jury may waive all or part of the damages provided
8 for by this section, but the court shall render judgment against
9 defendant for not less than the amount of the dishonored check, the
10 incurred court ~~and service costs~~ and the costs of collection, including
11 but not limited to reasonable attorney fees.

charge (6)

12 (e) Any amount previously paid as restitution or reparations to
13 the holder of the check by its maker or drawer shall be credited
14 against the amount for which the maker or drawer is liable under
15 subsection (a).

costs (7)

16 (f) Conviction of giving a worthless check or habitually giving a
17 worthless check, as defined by K.S.A. 21-3707 and 21-3708 ~~and~~
18 ~~subsection (g)~~, and amendments thereto, shall not be a prerequisite
19 or bar to recovery pursuant to this section.

charge (8)

20 (g) As used in this section, "giving a worthless check" means the
21 making, drawing, issuing or delivering or causing or directing the
22 making, drawing, issuing or delivering of any check, order or draft
23 on any bank, credit union, savings and loan association or depository
24 for the payment of money or its equivalent.

Note: K.S.A. 60-2610, inclusive of subsection (g) is a part of the civil code so that it would be impossible to convict one under the provisions of subsection (g) which is the reason for deleting this wording.

25 (1) With intent to defraud or in payment for a preexisting debt;
26 and

(h) "service charge" as used in this act shall mean the dollar charge authorized by K.S.A. 1989 Supp. 21-3707(2) and K.S.A. 16a-2-501(1) (e) (iii)

27 (2) which is dishonored by the drawee because the maker or
28 drawer had no deposits in or credits with the drawee or has not
29 sufficient funds in, or credits with, the drawee for the payment of
30 such check, order or draft in full upon its presentation.

31 Sec. 2. K.S.A. 1989 Supp. 21-3707 is hereby amended to read
32 as follows: 21-3707. (1) Giving a worthless check is the making,
33 drawing, issuing or delivering or causing or directing the making,
34 drawing, issuing or delivering of any check, order or draft on any
35 bank, credit union, savings and loan association or depository for
36 the payment of money or its equivalent with intent to defraud and
37 knowing, at the time of the making, drawing, issuing or delivering
38 of such check, order or draft, that the maker or drawer has no
39 deposit in or credits with the drawee or has not sufficient funds in,
40 or credits with, the drawee for the payment of such check, order
41 or draft in full upon its presentation.

42 (2) In any prosecution against the maker or drawer of a check,
43 order or draft payment, of which has been refused by the drawee

(9)

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1 on account of insufficient funds, the making, drawing, issuing or
2 delivering of such check shall be prima facie evidence of intent to
3 defraud and of knowledge of insufficient funds in, or on deposit with,
4 the drawee unless the maker or drawer pays the holder thereof the
5 amount due thereon and a service charge not exceeding \$10 for each
6 check, within ~~seven~~ 14 days after notice has been given to the
7 maker or drawer that such check, draft or order has not been paid
8 by the drawee. *Prima facie evidence of "intent to defraud," as that*
9 *term is used in this section, shall not be rebutted by evidence that*
10 *the check, order or draft was given as payment of a preexisting*
11 *debt. As used in this section, "notice" includes oral or written notice*
12 *to the person entitled thereto. Written notice shall be presumed to*
13 *have been given when deposited as restricted matter in the United*
14 *States mail, addressed to the person to be given notice at such*
15 *person's address as it appears on such check, draft or order or to*
16 *the last known address.*

17 (3) It shall be a defense to a prosecution under this section that
18 the check, draft or order upon which such prosecution is based:

19 (a) Was postdated, or

20 (b) was given to a payee who had knowledge or had been in-
21 formed, when the payee accepted such check, draft or order, that
22 the maker did not have sufficient funds in the hands of the drawee
23 to pay such check, draft or order upon presentation.

24 (4) Giving a worthless check is a class D felony if the check,
25 draft or order is drawn for \$50,000 or more. Giving a worthless
26 check is a class E felony if the check, draft or order is drawn for
27 at least \$500 but less than \$50,000. Giving a worthless check is a
28 class A misdemeanor if the check, draft or order is drawn for less
29 than \$500.

30 Sec. 3. K.S.A. 16a-2-501 is hereby amended to read as follows:
31 16a-2-501. (1) In addition to the finance charge permitted by the
32 parts of this article on maximum finance charges for consumer credit
33 sales and consumer loans (parts 2 and 4), a creditor may contract
34 for and receive the following additional charges in connection with
35 a consumer credit transaction:

36 (a) Official fees and taxes;

37 (b) charges for insurance as described in subsection (2);

38 (c) annual fees payable in advance or monthly fees, delinquency
39 charges, insufficient check charges as provided in paragraph (e) of
40 this subsection, over-limit fees and cash advance fees, for the priv-
41 ilege of using a lender credit card which entitles the user to purchase
42 goods or services from at least 100 persons not related to the issuer
43 of the lender credit card, under an arrangement pursuant to which

V-5

1 the debts resulting from the purchases are payable to the issuer;
 2 (d) charges for other benefits, including insurance, conferred on
 3 the consumer, if the benefits are of value to the consumer and if
 4 the charges are reasonable in relation to the benefits, are of a type
 5 which is not for credit, and are excluded as permissible additional
 6 charges from the finance charge by rules and regulations adopted
 7 by the administrator;

8 (e) ~~charges~~ for an insufficient check as defined and authorized
 9 by this subsection:

a service charge

10

10 (i) For the purposes of this subsection, "insufficient check" means
 11 any check, order or draft drawn on any bank, credit union, savings
 12 and loan association, or other financial institution for the payment
 13 of money and delivered in payment, in whole or in part, of preex-
 14 isting indebtedness of the drawer or maker, which is refused payment
 15 by the drawee because the drawer or maker does not have sufficient
 16 funds in or credits with the drawee to pay the amount of the check,
 17 order or draft upon presentation, provided that any check, order or
 18 draft which is postdated or delivered to a payee who has knowledge
 19 at the time of delivery that the drawer or maker did not have
 20 sufficient funds in or credits with the drawee to pay the amount of
 21 the check, draft or order upon presentation shall not be deemed an
 22 insufficient check.

23 (ii) "Written notice" shall be presumed to have been given a
 24 drawer or maker of an insufficient check when notice is ~~deposited~~
 25 ~~in the United States mail sent by restricted mail as defined by~~
 26 ~~K.S.A. 60-103, and amendments thereto,~~ addressed to the person to
 27 be given notice of such person's address as it appears on the in-
 28 sufficient check or to such person's last known address.

29 (iii) When an insufficient check has been given to a payee, the
 30 payee may charge and collect a \$10 insufficient check ~~fee~~ from the
 31 drawer or maker if the payee has given the drawer or maker oral
 32 or written notice of demand that the amount of the insufficient check
 33 plus the \$10 insufficient check ~~fee~~ be paid to the payee within ~~seven~~
 34 14 days from the giving of notice.

service charge

11 12 13 14

35 (iv) If the drawer or maker of an insufficient check does not pay
 36 the amount of the insufficient check plus the insufficient check ~~fee~~
 37 provided for in subsection (iii) to the payee within ~~seven~~ 14 days
 38 from the giving of notice as provided in subsection (iii), the payee
 39 may add the \$10 insufficient check ~~fee~~ to the outstanding balance
 40 of the preexisting indebtedness of the drawer or maker to draw
 41 interest at the contract rate applicable to the preexisting
 42 indebtedness.

43 (2) An additional charge may be made for insurance written in

1 connection with the transaction, including vendor's single interest
2 insurance with respect to which the insurer has no right of subro-
3 gation against the consumer but excluding other insurance protecting
4 the creditor against the consumer's default or other credit loss:

5 (a) With respect to insurance against loss of or damage to prop-
6 erty, or against liability, if the creditor furnishes a clear and specific
7 statement in writing to the consumer setting forth the cost of the
8 insurance if obtained from or through the creditor and stating that
9 the consumer may choose the person through whom the insurance
10 is to be obtained; and

11 (b) with respect to consumer credit insurance providing life, ac-
12 cident and health, or loss of employment coverage, if the insurance
13 coverage is not a factor in the approval by the creditor of the ex-
14 tension of credit, and this fact is clearly disclosed in writing to the
15 consumer, and if, in order to obtain the insurance in connection
16 with the extension of credit, the consumer gives specific affirmative
17 written indication of the consumer's desire to do so after written
18 disclosure to the consumer of the cost thereof.

19 Sec. 4. K.S.A. 16a-2-501 and K.S.A. 1989 Supp. 21-3707 and
20 60-2610 are hereby repealed.

21 Sec. 5. This act shall take effect and be in force from and after
22 its publication in the Kansas register.

OFFICERS

Terry Gross, President
Rodney Symmonds, Vice-President
Gene Porter, Sec.-Treasurer
James Puntch, Jr., Past President



DIRECTORS

James Flory
Randy Hendershot
Wade Dixon
John Gillett

Kansas County & District Attorneys Association

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EXECUTIVE DIRECTOR • JAMES W. CLARK, CAE

Proposed Amendment to

HOUSE BILL 2581

0017 AN ACT concerning crimes and punishments; providing for fees
0018 for collection of worthless checks, orders or drafts.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. (1) A county or district attorney may collect a fee
0021 for processing and collecting any check, order or draft which is
0022 made, drawn, issued or delivered in violation of K.S.A. 21-3707
0023 or 21-3708, and amendments thereto. The fee may be collected
0024 from any party to the violation.

0025 (2) The amount of the fee shall be as follows:

0026 (a) If the face amount of the check, order or draft is \$10 or
0027 less, the fee shall be \$5.

0028 (b) If the face amount of the check, order or draft is more than
0029 \$10 and not more than \$100, the fee shall be \$10.

0030 (c) If the face amount of the check, order or draft is more than
0031 \$100 and not more than \$300, the fee shall be \$30.

0032 (d) If the face amount of the check, order or draft is more than
0033 \$300 and not more than \$500, the fee shall be \$50.

0034 (e) If the face amount of the check, order or draft is more than
0035 \$500, the fee shall be \$75.

0036 (3) Fees collected under this section shall be paid to the
0037 county treasurer who shall deposit them in the county treasury
0038 and credit them to a separate, special fund which shall be used
0039 exclusively to defray the expenses of the county or district
0040 attorney's office. Expenditures from the fund shall be made only
0041 upon the order of the county or district attorney. In no event shall
0042 the fund be used to supplement the salary of the county or
0043 district attorney.

0044 (4) Nothing in this section shall be construed to decrease the
0045 total salaries, expenses and allowances which a county or district
0046 attorney's office is receiving at the time this act takes effect.

0047 Sec. 2. This act shall take effect and be in force from and
0048 after its publication in the statute book.

Ag. SB
1-31-90
ATTACHMENT VI

TESTIMONY ON H.B. 2581

AN ACT concerning worthless and insufficient funds checks

Presented to the

HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

January 31, 1990

by the

KANSAS CREDIT UNION LEAGUE

Madam Chairperson, members of the Committee:

I am Jerel Wright, Governmental Affairs Director for the Kansas Credit Union League (KCUL). Our association represents 98% of the 147 state-chartered and 42 federally-chartered credit unions located in Kansas. KCUL member credit unions serve the personal financial needs of over 500,000 individual credit union members and have over \$1.5 billion in combined assets. Kansas credit unions range in asset size from \$29,000 to \$114 million and range in membership size from 58 to 43,000 members.

CREDIT UNIONS SUPPORT HB 2581

Every day, the average credit union may accept a hundred checks or more in payment for loans, in deposits to shares and in exchange for cash. Many of the checks accepted are returned because the member has insufficient funds to cover the check. The credit union then has the task of collecting the funds paid out to the member or collecting a back payment on a loan account.

AG. SB
1-31-90
ATTACHMENT VII

HB 2581 strengthens a credit union's ability to collect an insufficient funds check by increasing the ways a credit union may pursue collection of a worthless check. The bill amends the definition of "giving a worthless check" by including "presenting a check for payment of a preexisting debt" in the definition. This change would allow for the criminal prosecution of a person who gives a worthless check for payment of a preexisting debt.

The credit unions feel this is a positive change and one which will help reduce the number of worthless checks that are presented to a credit union. For this reason, we support the passage of HB 2581.

Thank you for considering our testimony.