

Approved: March 13, 1996  
Date

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Bill Bryant at 3:30 p.m. on March 6, 1996 in Room 527S-of the Capitol.

All members were present except: Representative Tom Sawyer  
Representative Phill Kline  
Representative Delbert Crabb

Committee staff present: Bill Wolff, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: John Smith, Credit Union  
Danielle Noe, Kansas Credit Union Association  
Newton Male, State Bank Commissioner  
Senator Rip Gooch  
Chuck Stones, Kansas Bankers Association

Others attending: See attached list

**SB 434: Maximum finance charges for consumer loans**

John Smith, Kansas Department of Credit Unions, described the bill which would permit one or more credit unions, through their board of directors and under written investment policies established by their boards, to invest in capital stock and make loans to a credit union services organization (CUSO) (Attachment 1). These changes will give Kansas chartered credit unions parity with credit unions established under federal law.

Danielle Noe, Governmental Affairs Director for the Kansas Credit Union Association, told the Committee that CUSO's are not used extensively due to Kansas regulations, (Attachment 2). CUSO's have been established for owning land belonging to the credit union, providing travel services, and for providing shared service facilities. Federal CUSO's are authorized to provide services such as credit and debit card, check cashing and wire transfer, ATM's, data processing, loan processing, electronic tax filing and tax preparation, etc. The proposed legislation would allow Kansas CUSO's to be on the same playing field as federal credit unions and would allow credit unions to make loans to CUSO's with the credit union administrator issuing rules and regulations governing the investments and loans made to CUSO's by credit unions.

**SB 571: Reduction in capitol stock of a bank or trust company**

Newton Male, State Bank Commissioner, explained how a newly chartered bank's minimum total capital is determined which ultimately is less than what is now required for already established banks/. The process requires the projection of estimated deposits after five years be 8% of total deposits or \$250,000, whichever is greater (Attachment 3). This bill would permit an existing bank, with prior approval of the Bank Commissioner, to reduce its capital stock to the minimum allowed for a new bank. The capital stock account could be reduced below the minimum level by transferring those funds to the surplus account with the approval of the Board of Directors. This legislation is needed as there is no mechanism in the statute to allow a bank which over estimates its projected five year deposit growth to make an adjustment in its capital stock account.

**SB 703: Delivery of certain contents of safe deposit boxes on death of the lessee**

Senator Rip Gooch related a story of how a family member listed as a beneficiary to a portion of its contents was denied access to the safe deposit box upon the death of the renter of the box. At this time the contents of a safety deposit box are recorded and must go through a court process before allowing the beneficiaries to have the contents left in the box on their behalf.

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,  
Room 527S-Statehouse, at 3:30 a.m. on March 6, 1996.

Chuck Stones, Kansas Bankers Association, explained that the bill clarifies that CD's and other evidences of deposit accounts could be delivered to the beneficiaries upon satisfactory identification (Attachment 4).

### **Discussion and Action on SB 418: Transfer of stock of a bank or trust company**

This bill would prohibit the original owner of bank or trust company stock to transfer such stock if the owner is liable as a principal debtor, surety or otherwise to the bank or trust company, not only if the debt is matured, but if the debt is charged off or forgiven as well.

Representative Cox moved to pass the bill out favorably. The motion was seconded by Representative Samuelson. Motion carried.

### **Discussion and Action on SB 435: Surety bonds of officers of bank or trust companies**

This bill would remove the mandate that the required surety bonds on officers and employees of banks and trust companies be held by the Commissioner, only proof of such bonds would be required. The bill would require an officers of any bank or trust company to relinquish the officer's position if that person became indebted to the bank or trust company and the debt was forgiven or charged off by the institution.

Representative Graeber moved for the favorable passage of the bill. The motion was seconded by Representative Samuelson. Motion carried.

### **Discussion and Action on SB 436: Closing hours for banks and trust companies**

The Board of Directors of banks and trust companies may change permanent business hours by adoption of a resolution designating new hours and posting the resolution in a conspicuous place 15 days in advance of the effective date of the change.

Representative Graeber moved for the favorable passage of the bill. The motion was seconded by Representative Humerickhouse. Motion carried.

### **Discussion and Action on SB 437: Maximum finance charges on consumer loans**

The bill would allow a 5% nonrefundable origination fee on a consumer loan secured by an interest in land. Loans not secured by land could be charged an origination fee of either 5% or \$150, whichever is less. Creditors would not be allowed to charge a finance fee on that portion of the loan for which the creditor has already received a fee if the loan is increased within six months.

Representative Gilbert moved to pass the bill out favorably. Motion was seconded by Representative Humerickhouse. Motion carried.

### **Discussion and Action on SB 411: UCCC closing cost, application of payments**

This will would make it clear that the date a payment is received by an assignor will be the date the payment is received by the assignee, payments received on a delinquent account but before the due date of the next installment would be applied to the previous past due installment, that closing costs would be defined as including filing, recording or releasing fees paid to public officials or agencies of the state or federal government, payment to third parties not related to the lender (appraisals), etc.

Representative Donovan moved for the favorable passage of the bill. Representative Samuelson seconded the bill. Motion carried.

### **Discussion and Action on SB 417: Certain charges on the consumer credit transactions**

Representative Cox moved for the favorable passage of the bill. Representative Correll seconded the motion. Motion carried.

The meeting adjourned at 5:05 p.m. The next meeting is scheduled for March 7, 1996.

# HOUSE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE GUEST LIST

DATE: 3/6/96

NAME	REPRESENTING
Danielle Noel	KCUA
Chuck Stones	KBA
Tim Randolph	Beneficial
Chris Wakim	Household Financial Grp, LTD.
George Barbee	KAFS
John P. Smith	Ks Dept credit unions
Alisia M. Vaughan	KTD
Callie Denton	KID
Whitney Damron	Kansas Bar Assn.
Larry Dyma	ILBA
Bill Caton	Consumer Credit
W. Newton Male	Ks. Banking Dept.
Gail Kassar	Kansas Dept of C.C.'s
Ken Bahr	4th Financial Corp



# Kansas Department of Credit Unions

400 Kansas Avenue, Suite B  
Topeka, KS 66603  
Phone (913) 296-3021  
FAX (913) 296-6830

## HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

### Senate Bill No. 434

March 6, 1996

Mr. Chairman and Members of the House Committee:

I am John P. Smith, Administrator of the Kansas Department of Credit Unions, and I urge you to recommend S.B. 434 for passage by the Kansas House of Representatives.

Over the past several years our department has received inquiries about forming credit union services organization by single credit unions. A credit union by itself desiring to form a credit union services organization, cannot do so since current Kansas credit union law, unlike Federal law, does not provide authority for this type of organization to be formed by one credit union acting alone. Kansas law requires two or more credit unions to form a credit union services organization. The language and policies contained in the proposed bill permits one or more credit unions, through their board of directors and under written investment policies established by their boards, to invest in capital stock of and make loans to a credit union services organization.

It is the position of the Kansas Department of Credit Union's Administrator that S.B. 434 is good public policy designed to serve and safeguard the interests of Kansas credit unions and their member owners.

With regard to specific language of the bill, a brief comment about the changes and their effect has been included for your information.

**Section 1**, (page 1, line 25) gives the administrator statutory powers to implement rules and regulations. The addition of rule and regulatory authority provides flexibility for the administrator in supervising and examining this type of organization as needs of credit union members change and examination procedures are updated.

*House F.D.D.*  
*Attachment 1*  
*March 6, 1996*

**Section 1**, (page 1, line 27 through line 32) provides additional authority for the credit union to make loans to credit union services organization. The language in the proposed bill clarifies the definition of the 2% investment to require the *aggregate* of the credit union's unimpaired shares, reserves and undivided earnings.

**Section 1**, (page 1, line 33 through 38) updates the name and definition for credit union services organization. Credit union services organizations are formed by credit unions to provide a variety of services including credit card and debit card services; check cashing and wire transfers; internal audits for credit unions; automated transaction terminal services; electronic funds transfer services; accounting services, payment item processing; management and personnel training and support; and financial planning, counseling and retirement planning.

These changes will give Kansas chartered credit unions parity with credit unions established under federal law.

Kansas  
Credit  
Union  
Association

Testimony on SB 434  
AN ACT concerning credit union service organizations  
Presented to the  
House Financial Institutions and Insurance Committee  
March 6, 1996

Mr. Chairman and members of the Committee:

I am Danielle Noe and I am the Governmental Affairs Director for the Kansas Credit Union Association. Our association represents 160 credit unions who serve more than 600,000 members.

Thank you for the opportunity to testify in support of SB 434 relating to credit union service organizations (CUSOs).

Kansas credit unions have been allowed to make investments in CUSOs since the early 1970s. CUSOs were first established as a way of allowing credit unions to provide related services to members which the credit union could not otherwise provide. Many times a credit union would like to provide services which it could better provide under a for profit corporate structure or as a joint venture with other credit unions. Some credit unions have used CUSOs as a way of reducing their costs associated with processing accounts or providing frequently used forms. Other credit unions have used CUSOs to provide services through a third party corporation. For example, a CUSO may want to invest in an outside party to provide ATM or EFT processing.

Federal regulations have defined some generally permissible activities for CUSOs to include:

816 SW Tyler  
Topeka, KS 66612  
(913) 232-2446  
(913) 232-2730 fax

8410 W. Kellogg  
Wichita, KS 67209

P.O. Box 757  
Dodge City, KS  
67801

*Haw FWD*  
*Attachment 2*  
*March 6, 1996*

- ▶ credit card and debit card services
- ▶ check cashing and wire transfers
- ▶ ATM services
- ▶ data processing
- ▶ shared service centers
- ▶ payment item processing
- ▶ debt collection services
- ▶ financial planning and counseling
- ▶ loan processing
- ▶ electronic tax filing and tax preparation

In Kansas, CUSOs have not been extensively used. However, some CUSOs in Kansas have been formed for the purposes of owning land belonging to the credit union, providing travel services, and for providing shared service facilities.

SB 434 changes the existing law to match that of the Federal Credit Union Act. One advantage to this change is that federally insured state chartered credit unions (FISCUs) are subject to both state and federal regulations governing investments—including investments in CUSOs. However, since the definition of CUSO is different under state law, there is some question as to what is permissible and what is not. Specifically, the change in lines 37 and 38 of page 1 will enable Kansas credit unions to rely on one definition of the purpose of a CUSO.

SB 434 would also allow credit unions to make loans to CUSOs. This is also allowed currently for federally chartered credit unions. Credit unions would be limited to 2% of the credit union's unimpaired shares, reserves and undivided earnings. This limit will help protect the credit union and its members from excess exposure in the event that the CUSO becomes insolvent.

SB 434 will also allow the credit union administrator to issue rules and regulations governing the investments and loans made to CUSOs by credit unions.

We believe that SB 434 will make our laws governing CUSOs more consistent with federal law, and make it easier for a state chartered credit union comply with both laws governing investments. We would ask for your favorable consideration of SB 434.

STATE OF KANSAS  
BILL GRAVES  
GOVERNOR



W. Newton Male  
Bank Commissioner

Judi M. Stork  
Deputy Commissioner

Kevin C. Glendening  
Assistant Deputy Commissioner

William D. Grant, Jr.  
General Counsel

Ruth E. Glover  
Administrative Officer

OFFICE OF THE  
STATE BANK COMMISSIONER

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

MARCH 6, 1996

Mr. Chairman and Members of the Committee:

I am Newton Male, Bank Commissioner, and I am here today to testify for Senate Bill 571.

Senate Bill 571 amends K.S.A. 9-904, which governs the way in which a bank may reduce its capital stock. I would like to note, and it is important to remember, that this amendment in no way would reduce the total capital a bank is presently required to maintain. To explain what this amendment actually does, I'd like to talk a little about how a bank's capital is determined.

A new bank chartered today would be required to have a minimum total capital of \$250,000 or 8% of its estimated deposits 5 years after its organization, whichever is greater. That sum of capital must initially be divided up so that 60% of the total represents the par value of the outstanding shares of stock, another 30% goes into the surplus account, and the remaining 10% is placed in undivided profits.

From that point forward, before paying a dividend, the bank must transfer 25% of its net profits to the surplus account until the surplus account at least equals the amount of capital stock. The purpose of this restriction is to ensure that, as the bank continues to grow in its deposit base, a portion of the bank's profits are "set aside" in the form of additions to the surplus account as a buffer against any future losses. A bank may not pay a dividend from, or otherwise reduce, its surplus without permission of the Commissioner and the Banking Board.

K.S.A. 9-904 permits an existing bank, with prior approval, to reduce its capital stock to the minimum allowed for a new bank. Senate Bill 571 makes two narrowly defined changes in this statute. First, it moves the approval process to reduce capital stock to the minimum level (\$250,000 or 8% of projected deposits) from the Banking Board to the Commissioner. The second change, beginning on line 19 adds new language to permit a bank to reduce its capital stock account below that minimum level by transferring those funds to the surplus account. As the bill states, this could only be done with the prior approval of the Banking Board, based on their findings of certain safety and soundness considerations as described in (b)(1-4) beginning on line 23 of the Bill.

The department's reason for requesting this new language is that currently there is no mechanism in the statute to allow a bank which over estimates its projected five year deposit growth to make an adjustment in its capital stock account. A brief example may help to shed light on this problem.

A new bank is chartered to purchase the assets of a failed institution so that banking services will continue to be provided in the community. The new bank determines that 8% of its projected deposits at the end of 5 years would be 1 million dollars. Under current law, the bank's capital structure would be \$600,000 in

*House File 9  
Attachment 3  
March 6, 1996*



capital stock, \$300,000 in surplus, and \$100,000 in undivided profits. If the bank's actual deposit growth is considerably less than projected, the result would be a disproportionate share of total capital held in the capital stock account. This creates a problem as the bank, by law, must transfer 25% of its profits to the surplus account until surplus at least equals the amount of the capital stock account. In this example, the bank would have to increase its surplus account by an additional 3 million dollars, in spite of the fact that the projection upon which the 3 million figure was based is overstated. The necessity to fund that additional 3 million in surplus precludes the use of those funds for stock debt servicing, expansion of the bank and its services, or any other purpose of potential benefit to the bank or its community.

This amendment addresses the issue by allowing the bank to transfer a portion of the capital stock amount to the surplus account, in order to have the surplus at least equal to the capital stock, thereby eliminating the need for additional transfers from undivided profits.

The department feels the requirements contained in the amendment, which are: 1) banking board approval based on a satisfactory finding of the safety and soundness issues described in the amendment; and, 2) the minimum floor of 8% of total deposits as defined beginning on line 25 of the bill, in combination with the existing restrictions on the surplus account contained in K.S.A. 9-912, provide adequate safeguards to protect the integrity of the bank's capital structure.

We ask for favorable consideration of this bill.

# Kansas Bankers Association

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913-232-3444 Fax - 913-232-3484 E-Mail - kba@ink.org

2-22-96

TO: House Financial Institutions and Insurance Committee

FROM: Chuck Stones

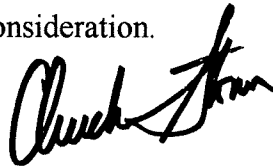
RE: SB 703

Mr. Chairman and Members of the Committee,

Thank you for the opportunity to appear on SB 703. The Kansas Bankers Association has no objection to the provisions of SB 703. This legislation apparently arose from a difference in interpretation about what could or could not be removed from a safe deposit box and delivered to the beneficiaries of the instruments in the box. SB 703 clarifies that CD's and other evidences of deposit accounts could be delivered to the beneficiaries upon satisfactory identification. We are in favor of anything that clarifies procedures and are supportive of methods of delivering the contents of safe deposit boxes to the rightful owners. We urge your support for SB 703.

Thank you for your consideration.

Charles A. Stones  
Director of Research



*House F.I.D.  
Attachment #  
March 6, 1996*