

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 A.M. on March 14, 2007 in Room 234-N of the Capitol.

All members were present.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department  
Terri Weber, Kansas Legislative Research Department  
Ken Wilke, Office of Revisor of Statutes  
Bev Beam, Committee Secretary

Conferees appearing before the committee:

John Smith, Administrator, Department of Credit Unions; Jerel Wright, Kansas Credit Union Association; Senator Marci Francisco

Others attending:

See attached list.

The Chair called the meeting to order.

Hearing on:

**HB 2113 - concerning credit unions; pertaining to administrative hearings**

John Smith, Administrator, Kansas Department of Credit Unions, testified in support of HB 2113. Mr. Smith stated that HB 2113 would amend K.S.A. 17-2242(b) which currently states that a credit union may appeal an order of the administrator pursuant to K.S.A. 17-2241. That statute provides for an appeal of administrative action to district court. However, an opportunity for a hearing at the administrative level prior to any appeal to the district court is missing. The proposed amendment to K.S.A. 17-2242(b) would remedy this situation by granting a hearing or an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedures act. Appeals from the hearing process would continue to be governed by the Kansas Act for judicial review (K.S.A. 77-601 et seq.) according to K.S.A. 17-2241. Mr. Smith said enactment of the amendment would have no fiscal impact on the Kansas Department of Credit Unions. (Attachment 1)

Jerel Wright, Kansas Credit Union Association, testified in support of the changes proposed by the Kansas Department of Credit Unions. (Attachment 2)

Senator Marci Francisco testified in opposition to HB 2113. Senator Francisco stated that she is concerned with the appeal process available to directors, officers, committee members and employees of credit unions throughout Kansas if the credit union administrator has suspended them from office and prohibited them from further participation. She said she is also concerned that the administrator has control over the hearing related to his or her action. Along with testimony, proposed amendments to HB 2113 are attached. (Attachment 3)

The Chair closed the hearing on HB 2113.

Hearing on:

**HB 2114 - concerning credit unions; pertaining to investment in a credit union services organization.**

John Smith again testified in support of HB 2114. Mr. Smith said HB 2114 is an amendment to 17-2204a(b). This amendment expands the permissible legal structure of CUSO (credit union service organization) to include limited liability companies or limited partnerships. The change reflects current credit union industry practice. CUSOs can be owned by one credit union but usually are owned by multiple state chartered and federal credit unions. This would allow them to be structured as limited liability companies or a limited liability partnership. Kansas credit unions invest in or loan money to credit unions organized in other states or by federal credit unions. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on March 14, 2007 in Room 234-N of the Capitol.

Jerel Wright also testified again in support of HB 2114 stating that KCUA supports the changes proposed by the Kansas Department of Credit Unions. (Attachment 5)

The Chair closed the hearing on HB 2114.

Action on:

Senator Wysong moved to pass HB 2114 favorably. Senator Schmidt seconded. Motion passed.

Action on:

**HB 2115 - concerning the workers compensation group-funded pool; relating to the collection of the premium tax.**

The Chair asked Melissa Calderwood to give an overview of HB 2115. Miss Calderwood stated that HB 2115 would amend the premium tax collection method for workers compensation group-funded pools. Under the bill, the labor group-funded pools would be permitted to collect in the same manner as municipal group-funded pools, rather than the current calculation based on estimated premiums. The premium tax is to be based upon the annual Kansas gross premium collected by the pool as applied to the collective premium relating to all Kansas members of the pool from the previous fiscal year. The tax is to be paid no later than 90 days after the end of each fiscal year.

Following discussion, Senator Vicki Schmidt moved to pass HB 2115 out favorably. Senator Brownlee seconded. Motion passed.

The Chair asked for a motion to approve the minutes of March 7. Senator Wysong so moved. Senator Brownlee seconded. Motion passed.

The meeting adjourned at 10:05 a.m.

**FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST**

**DATE:** 3-14-07

NAME	REPRESENTING
John P. Smith	Kansas Dept of credit unions
Richard H. Gable	Ks. Dept of Credit Unions,
Dan Munday	Federica Consult
Terrel Wright	KS Credit Union Assn
Hayley Dabee	KS Credit Union Assn.
Shari Kuba	CBA

**Written testimony for the  
Senate Financial Institutions and Insurance  
Committee**

**HB 2113**

**March 14, 2007**

**John P. Smith  
Administrator  
Kansas Department of Credit Unions**

*FI&I  
3-14-07  
Attachment 1*

**HB 2113 would amend K.S.A. 17-2242(b) which currently states that a credit union may appeal an order of the administrator pursuant to K.S.A. 17-2241. That statute provides for an appeal of administrative action to district court. However, what is missing is a hearing or an opportunity for a hearing at the administrative level prior to any appeal to district court. The proposed amendment to K.S.A. 17-2242(b) would remedy this situation by granting a hearing or an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedures act. Appeals from the hearing process would continue to be governed by the Kansas act for judicial review (K.S.A. 77-601 et seq.) according to K.S.A. 17-2241.**

**This amendment was requested by my counsel at the Attorney General's Office in order to assure that actions authorized under this statute would be taken in accordance with the Kansas administrative procedures act as are all other actions authorized under other statutes.**

**Enactment of the amendment will have no fiscal impact on the Kansas Department of Credit Unions**

**I stand for questions from members of the Senate committee.**



**KANSAS CREDIT UNION ASSOCIATION**

Testimony of the  
Kansas Credit Union Association  
on HB 2113  
before the  
Senate Financial Institutions & Insurance Committee  
March 14, 2007

Chairman Teichman & members of the committee:

I am Jerel Wright, with the Kansas Credit Union Association, which serves 112 Kansas credit unions, 78 state-chartered credit unions and 24 federally chartered credit unions.

Thank you for the opportunity to appear before you to speak to **HB 2113**, an act concerning credit unions, pertaining to administrative hearings.

KCUA supports the changes proposed by the Kansas Department of Credit Unions and asks for your favorable consideration of the bill.

I would be happy to respond to questions at your direction.

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The trade association and financial services provider for credit unions.



FI&I  
3-14-07  
Attachment 2

STATE OF KANSAS



TOPEKA

SENATE CHAMBER

MARCI FRANCISCO  
SENATOR, 2ND DISTRICT

DURING SESSION  
STATE CAPITOL — 422S  
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COMMITTEE ASSIGNMENTS  
RANKING MINORITY MEMBER  
AGRICULTURE  
NATURAL RESOURCES  
MEMBER  
UTILITIES  
ELECTIONS AND LOCAL GOVERNMENT  
MEMBER, JOINT COMMITTEE  
ARTS AND CULTURAL RESOURCES  
LEGISLATIVE EDUCATIONAL PLANNING

**Testimony In Opposition To HB 2113  
Kansas Senate Financial Institutions and Insurance Committee  
On March 14, 2007**

Chairperson, Senator Teichman,  
Vice-Chairperson, Senator Wysong  
Ranking Minority Member, Senator Steineger  
and Members of the Committee:

Thank you very much for this opportunity to testify in opposition to House Bill 2113.

I am a long-time member and former volunteer of the Free State Credit Union. I am concerned with the appeal process available to directors, officers, committee members and employees of our credit union and others throughout this state if the credit union administrator has suspended them from office and prohibited them from further participation.

The statute refers to "The credit union" in the last sentence in Section 1, (b), of K.S.A. 17-2242. as the entity who shall be given a hearing or an opportunity for a hearing. The definition in K.S.A. 17-2231 for "Credit Union" does not clarify who this would be. It may be assumed that the board of directors would take this action; however our credit union had all the members of the board of directors suspended. Who then can ask to have a hearing? I would like to see the opportunity for a hearing made available to any member affected by the administrator's action.

I am also concerned that the administrator has control over the hearing related to his or her action. I am pleased that the Senate will be voting on Senate Bill 351 later today; if signed into law, that bill would eliminate the exception for administrative hearings held by the state department of credit unions. However that change would not go into effect until 2009.

I have asked the revisor for amendments to address these concerns. I would be pleased if you would consider those amendments if you choose to work this bill.

*marci francisco*

FI&I  
3-14-07  
Attachment 3

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# HOUSE BILL No. 2113

By Committee on Insurance and Financial Institutions

1-18

9 AN ACT concerning credit unions; pertaining to administrative hearings;  
10 amending K.S.A. 17-2242 and repealing the existing section.

and K.S.A. 2006 Supp. 75-37,121

sections

11  
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 17-2242 is hereby amended to read as follows: 17-  
14 2242. (a) If it appears to the administrator that the board of directors,  
15 supervisory or credit committees, of any credit union has been dishonest,  
16 reckless or incompetent in the performance of their duties, the admin-  
17 istrator: (1) May recommend the removal of such persons; and (2) may  
18 submit any such findings, reports or recommendations to any regularly  
19 or specially called meeting of the board of directors, credit and supervi-  
20 sory committees or, if the administrator has done this, after due notice  
21 given at least 10 days in advance, may submit the administrator's findings  
22 and recommendations and reports to a general meeting of the sharehold-  
23 ers. Due notice shall be construed as being such notice as is provided in  
24 the bylaws of the credit union for calling such meetings. The administra-  
25 tor may give such additional notice to the members as the administrator  
26 deems advisable. The administrator and employees shall not be personally  
27 liable for such reports, recommendations and findings made in good faith.  
28 At any such meeting of the shareholders it shall be in order to call for a  
29 vote to remove such officers, board members, committee members, or  
30 employees. Such action by the shareholders to remove or not remove  
31 such persons from their positions shall be absolute and need not be based  
32 on any finding, concurrence or nonagreement with the administrator that  
33 such persons are or have been dishonest, reckless or incompetent in the  
34 performance of their duties. At any such meeting of the shareholders the  
35 board of directors, supervisory or credit committees may concur or not  
36 concur with a recommendation of removal whether or not they agree  
37 with the findings of the administrator.

38 (b) As an alternative to and notwithstanding subsection (a), the ad-  
39 ministrator may suspend from office and prohibit from further partici-  
40 pation in any manner in the conduct of the affairs of a credit union any  
41 director, officer, committee member or employee who has committed  
42 any violation of a law, rules and regulations or of a cease and desist order  
43 or who has engaged or participated in any unsafe or unsound practice in



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1 connection with the credit union or who has committed or engaged in  
 2 any act, omission or practice which constitutes a breach of that person's  
 3 fiduciary duty as such director, officer, committee member or employee,  
 4 when the administrator has determined that such action or actions have  
 5 resulted or will result in substantial financial loss or other damage that  
 6 seriously prejudices the interests of the members. The credit union ~~may~~  
 7 ~~appeal the order pursuant to K.S.A. 17-2241, and amendments thereto~~  
 8 *shall be given a hearing or an opportunity for a hearing in accordance*  
 9 *with the provisions of the Kansas administrative procedures act.*

10 Sec. 2. K.S.A. 17-2242 is hereby repealed.

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

← or any affected member

← See attached

← And renumber remaining sections accordingly

← and K.S.A. 2006 Supp. 75-37,121 are

Sec. 2. K.S.A. 2006 Supp. 75-37,121 is hereby amended to read as follows: 75-37,121.

(a) There is created the office of administrative hearings within the department of administration, to be headed by a director appointed by the secretary of administration. The director shall be in the unclassified service under the Kansas civil service act.

(b) The office may employ or contract with presiding officers, court reporters and other support personnel as necessary to conduct proceedings required by the Kansas administrative procedure act for adjudicative proceedings of the state agencies, boards and commissions specified in subsection (h). The office shall conduct adjudicative proceedings of any state agency which is specified in subsection (h) when requested by such agency. Only a person admitted to practice law in this state or a person directly supervised by a person admitted to practice law in this state may be employed as a presiding officer. The office may employ regular part-time personnel. Persons employed by the office shall be under the classified civil service.

(c) If the office cannot furnish one of its presiding officers in response to a requesting agency's request, the director shall designate in writing a full-time employee of an agency other than the requesting agency to serve as presiding officer for the proceeding, but only with the consent of the employing agency. The designee must possess the same qualifications required of presiding officers employed by the office.

(d) The director may furnish presiding officers on a contract basis to any governmental entity to conduct any proceeding other than a proceeding as provided in subsection (h).

(e) The secretary of administration may adopt rules and regulations:

(1) To establish procedures for agencies to request and for the director to assign presiding officers. An agency may neither select nor reject any individual presiding officer for any proceeding except in accordance with the Kansas administrative procedure act;

(2) to establish procedures and adopt forms, consistent with the Kansas administrative procedure act, the model rules of procedure, and other provisions of law, to govern presiding officers; and

(3) to facilitate the performance of the responsibilities conferred upon the office by the Kansas administrative procedure act.

(f) The director may implement the provisions of this section and rules and regulations adopted under its authority.

(g) The secretary of administration may adopt rules and regulations to establish fees to charge a state agency for the cost of using a presiding officer.

(h) The following state agencies, boards and commissions shall utilize the office of administrative hearings for conducting adjudicative hearings under the Kansas administrative procedures act in which the presiding officer is not the agency head or one or more members of the agency head:

(1) On and after July 1, 2005: Department of social and rehabilitation services, juvenile justice authority, department on aging, department of health and environment, Kansas public employees retirement system, Kansas water office, Kansas animal health department and Kansas insurance department.

(2) On and after July 1, 2006: Emergency medical services board, emergency medical services council, Kansas health policy authority and Kansas human rights commission.

(3) On and after July 1, 2007: Kansas lottery, Kansas racing and gaming commission,

state department of credit unions, state treasurer, pooled money investment board, Kansas department of wildlife and parks and state board of tax appeals.

(4) On and after July 1, 2008:

Department of human resources, state corporation commission, state conservation commission, agricultural labor relations board, department of administration, department of revenue, board of adult care home administrators, Kansas state grain inspection department, board of accountancy and Kansas wheat commission.

(5) On and after July 1, 2009: Except for administrative hearings conducted by the state board of pharmacy, Kansas dental board, state board of veterinary examiners, behavioral sciences regulatory board, state board of cosmetology, Kansas real estate commission, real estate appraisal board, state board of mortuary arts, Kansas board of barbering, board of nursing, Kansas board of examiners in fitting and dispensing of hearing aids, board of examiners in optometry, state board of healing arts, Kansas state banking board, ~~state-department of-credit-unions~~, office of the securities commissioner of Kansas and state board of technical professions, all other Kansas administrative procedure act hearings not mentioned in subsections (1), (2), (3) and (4).

(i) With respect to hearings before the secretary of agriculture in accordance with the Kansas administrative procedures act, the secretary of agriculture or a hearing officer from the office of administrative hearings shall be the presiding officer unless the party requests that the matter, for which a hearing has been scheduled or for which a right to a hearing exists, be heard by a hearing officer appointed by the secretary.

(j) (1) Effective July 1, 2005, any presiding officer in agencies specified in subsection (h)(1) which conduct hearings

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pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551 and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(2) Effective July 1, 2006, any presiding officer in agencies specified in subsection (h)(2) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551 and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an

administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(3) Effective July 1, 2007, any presiding officer in agencies specified in subsection (h)(3) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551 and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(4) Effective July 1, 2008, any full-time presiding officer in agencies specified in subsection (h)(4) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551 and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such

person's services shall be deemed to have  
been continuous. All transfers of personnel  
positions in the classified service under the  
Kansas civil service act shall be in  
accordance with civil service laws and any  
rules and regulations adopted thereunder.  
This section shall not affect any matter  
pending before an administrative hearing  
officer at the time of the effective date of  
the transfer, and such matter shall proceed  
as though no transfer of employment had  
occurred.

**Written testimony for the  
Senate Financial Institutions and Insurance  
Committee**

**HB 2114**

**March 14, 2007**

**John P. Smith  
Administrator  
Kansas Department of Credit Unions**

*FI&I  
3-14-07  
Attachment 4*



**HB 2114 is an amendment to 17-2204a(b); this section of credit union law provides authority for credit unions to invest in or make loans to credit union service organizations (CUSOs).**

**32 Kansas chartered credit unions have investments in 15 CUSOs. Services provided the 32 credit unions by the 15 CUSOs include credit card services, shared credit union service centers, mortgage servicing, ATM services, and insurance and investment services.**

**The amendment expands the permissible legal structure of CUSO to include limited liability companies or limited partnerships. The change reflects current credit union industry practice. CUSOs can be owned by one credit union but usually are owned by multiple state chartered and federal credit unions and structured as limited liability companies.**

**Credit union law in other states and the federal credit union rules allow for CUSOs to be structured as corporations, limited liability companies or limited partnerships. Kansas credit unions invest in or loan money to credit unions organized in other states or by federal credit unions.**

**I stand for questions from members of the Senate committee.**



**KANSAS CREDIT UNION ASSOCIATION**

Testimony of the  
Kansas Credit Union Association  
on HB 2214  
before the  
Senate Financial Institutions & Insurance Committee  
March 14, 2007

Chairman Teichman & members of the committee:

I am Jerel Wright, with the Kansas Credit Union Association, which serves 112 Kansas credit unions, 78 state-chartered credit unions and 24 federally chartered credit unions.

Thank you for the opportunity to appear before you to speak to **HB 2114**, an act concerning credit unions, pertaining to investment in a credit union service organization.

KCUA supports the changes proposed by the Kansas Department of Credit Unions and asks for your favorable consideration of the bill.

I would be happy to respond to questions at your direction.

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Attachments 5