

Approved: February 4, 2008

Date

MINUTES OF THE HOUSE INSURANCE AND FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order by Chairman Clark Shultz at 3:30 P.M. on January 30, 2008 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Bruce Kinzie, Revisor of Statutes Office
Ken Wilke, Revisor of Statutes Office
Sue Fowler, Committee Secretary

Conferees appearing before the committee:

John P. Smith, Kansas Department of Credit Unions
Mike Lackey, Credit Union 1 of Kansas
John Federico, Kansas Credit Union Association
Marla Marsh, Kansas Credit Union Association
Roy Doonan, Credit Union of America
Jack Chalendar, Credit Union of Johnson County
Raymond Stroud, Credit Union of Dodge City
Larry Damm, Cessna Employees Credit Union
Gary Regoli, Boeing Wichita Credit Union
Lee Williams, Central Star Credit Union
Leslie Kaufman, Kansas Cooperative Council

Others attending:

See attached list.

Hearing on:

HB 2676 **Credit union membership, defining**

Melissa Calderwood, Legislative Research Department, gave an overview on **HB 2676**.
Leo Hafner, Legislative Post Audit, provided a few comments on the Post Audit.

Proponents:

John P. Smith, Kansas Department of Credit Unions, (Attachment #1), presented testimony before the committee in support of **HB 2676**.

Mike Lackey, Credit Union 1 of Kansas, (Attachment #2), appeared before the committee in support of **HB 2676**.

John Federico, Kansas Credit Union Association, (Attachment #3), gave testimony in support of **HB 2676**.

Marla Marsh, Kansas Credit Union Association, (Attachment #4), presented testimony before the committee in support of **HB 2676**.

Roy Doonan, Credit Union of America, (Attachment #5), appeared before the committee in support of **HB 2676**.

Jack Chalendar, Credit Union of Johnson County, (Attachment #6), gave testimony in support of **HB 2676**.

Raymond Stroud, Credit Union of Dodge City, (Attachment #7), presented testimony before the committee in support of **HB 2676**.

Larry Damm, Cessna Employees Credit Union, (Attachment #8), appeared before the committee in support of **HB 2676**.

CONTINUATION SHEET

MINUTES OF THE House Insurance and Financial Institutions Committee at 3:30 P.M. on January 30, 2008 in Room 527-S of the Capitol.

Gary Regoli, Boeing Wichita Credit Union, (Attachment #9), gave testimony in support of **HB 2676**.

Lee Williams, Central Star Credit Union, (Attachment #10), presented testimony before the committee in support of **HB 2676**.

Leslie Kaufman, Kansas Cooperative Council, (Attachment #11), appeared before the committee in support of **HB 2676**.

Representative Grant moved the committee minutes of January 28, 2008 and January 29, 2008 be accepted without objection with a typographical date correction in the January 29, 2008 minutes.

Next meeting will be Thursday, January 31, 2008, 3:30 PM, in Room 527-S.

Meeting adjourned at 5:45 PM.

Insurance and Financial Institutions Committee

Guest Sign In Sheet

Wednesday, January 30, 2008

Name	Representing
Nasha Omish	Kansas Credit Union Assoc.
Raymond Struck	CREDIT UNION OF DODGE CITY
Cacke Chalender	Credit Union of Johnson County
P.W. "Bill" Skiles	Credit Union of Andover - Wichita
Kathy Saunders	Credit Union of Johnson County
Valleyman	CREDIT UNION OF JOHNSON CO
John Smith	CREDIT UNION OF JOHNSON COUNTY
John P. Smith	KS Dept. of Credit Unions
Jonathan Stokes	KAS
Gard Strand	Hutchinson C.U.
LARRY DAMM	CESSNA EMPLOYEES CREDIT UNION
Jared Wright	KCUA
Mark Kolarik	KANSAS TEACHERS COMMUNITY C.U.
Larry Eisenhauer	Kansas Corporate CU
Sue Schmelzer	Central Star Credit Union
Shana Rieke	Central Star Credit Union
A Lee Williams	Central Star Credit Union
P. Amber-Mann	Wyandotte Credit Union
GAVIN WITTMAN	EDUCATIONAL CREDIT UNION
JAMIE WRIGHT	" " "
Brian Davidson	Boeing Wichita Credit Union
Joey Deleen	TECU Credit Union
Charles B... ..	TECU CREDIT UNION
Tony Pearson	TECU
Greg Winkler	Capitol CUSO
PHILIP CHRONISTER	CESSNA EMPLOYEES CREDIT UNION
Leslie Kaufman	Co-op Council ^{KS}
Rickie Hunt	Cell 1 of KS
Wade Brunell	BWCU
Byron Stout	BYJU

**Written testimony for the
House Committee
on Insurance and Financial Institutions**

January 30, 2008

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

House Bill 2676 amends K.S.A. 17-2205 by removing current language referring to “groups residing within a well-defined neighborhood, community or rural district”: and replacing it with language that states a geographic area consisting of all or portions of one or more counties. The amendment also addresses the issue of multiple common bonds. The amendments address the issues discussed by the Special Interim Committee on Financial Institutions and Insurance and codify the current interpretation and practice for field of membership requested when credit unions are initially established and for credit union bylaw amendments modifying field of membership requirements.

In response to an open records request from the Kansas Credit Union Association (KCUA), with KDCU staff assistance in August 2007 KCUA reviewed and tabulated the field of membership of Kansas credit unions chartered since the enactment of the 1929 legislation authorizing credit union organizations. From 1929 to 2007, 318 credit unions were chartered, of these 79 or 24.8% were chartered as multiple common bond field of membership.

The Office of the State Bank Commissioner and the Administrator, Kansas Department of Credit Unions have consistently interpreted K.S.A. 17-2205 as allowing credit unions with multiple common bond fields of membership. From 1929 to 1968 credit unions were regulated by the Office of the State Bank Commissioner. During that time 270 credit unions were chartered, 64 (23.7%) were chartered with multiple common bonds. 48 credit unions were chartered from 1968 to 2007. 15 (31.3%) were chartered with multiple common bonds.

Credit unions with multiple common bonds also occur as a result of the merger of credit unions. Mergers occur for several reasons; the sponsor company or organization relocates or

goes out of business or the members decide to merge their credit union with another credit union. KDCU also may require a credit union that is experiencing problems to merge. Mergers allow the members of the credit union being merged to continue to receive financial services. Since 1968 126 credit unions have merged; 6 of these were due to KDCU administrative action.

The system of chartering credit unions with multiple common bonds appears to have served the needs of those organizing credit unions. KDCU supports the continuation of a system that has performed to the benefit of the member owners of Kansas credit unions. My testimony to the Special Interim Committee on Financial Institutions and Insurance supported remedial legislation so that the statute would conform to long standing practice. House Bill 2676 codifies how K.S.A. 17-2205 has been interpreted by Office of the State Bank Commissioner from 1929 to 1968 and by 8 persons who have served as Administrators of the Kansas Department of Credit Unions since 1968.

Testimony for the House Insurance and Financial Institutions Committee

Regarding House Bill 2676

Testimony by:
W. M. (Mike) Lackey
Chairman of the Board of Directors
Credit Union 1 of Kansas
January 30, 2008

Chairman Shultz and members of the committee, I am Mike Lackey, Chairman of the Board of Directors for Credit Union 1 of Kansas and I am here today to ask for your support of **HB 2676**.

HB 2676 is an important change for credit unions because it makes very clear that credit union law is updated to reflect the interpretations of 15 bank and credit union regulators over the last 60 years. I testified during the recent legislative interim committee hearings and I believe the changes proposed in **HB 2676** address the interim committee's request that the issue of credit union field of membership be addressed in the regular legislative session.

Before I continue about the bill, I would like to share how Credit Union 1 has evolved from a single sponsor (common bond) credit union serving members located throughout the state of Kansas to a credit union serving any person living or working in the state of Kansas. First, let me tell you a little about my service as a volunteer for Credit Union 1.

I became acquainted with the credit union when I went to work for the Kansas Highway Commission after graduating from Kansas State University in 1963. After being a member of the Kansas Highway Credit Union for 12 years and at the urging of my secretary, I decided to submit my name for election as a member of the Supervisory Committee. I became Chairman of this committee after a few years. Following the merger with Forbes Credit Union, I was asked to stand for election as a board member, for which I was successful. I have remained on the Board for approximately the last 20 years and have been Chairman for about 15 years. (I cannot recall the exact dates for these events.)

My "pay" for these positions includes a meal at the monthly Board meeting consisting of pizza or barbeque or sandwiches delivered to our Boardroom by a restaurant. I get my expenses paid to the annual statewide meeting and occasional educational programs on credit union related issues. I receive a Christmas gift of a gift certificate of nominal value. The value is less than our Christmas gift to our employees, which is, determined by how well our credit union's business performed that year.

I became a volunteer in response to a desire to serve an organization that had been extremely helpful to my family and me over the years. I had also observed first hand the help extended to employees I worked with. The ease of doing business and the safety of my investment was my motivation to see the organization continue to provide these services to the members. I am also very interested in serving the underserved citizens of our state. Our credit union, at the direction of the Board, is exploring ways to serve the Hispanic community. We have a number of programs in place at Fort Riley to help soldiers and their families. We also support a number of community charities.

Credit Union 1 of Kansas was initially chartered in 1984 as a result of the merger of Forbes Credit Union and Kansas Credit Union. Forbes was chartered in 1956 to serve Forbes Air Base in Topeka. Kansas Credit Union was chartered in the mid 1970's. Some explanation of how these two credit unions evolved over the years will help to explain how we reached out to serve the current membership of Credit Union 1 of Kansas.

Forbes Credit Union's initial membership consisted primarily of Forbes Air Base personnel until the base closed. The Board of Directors chose to continue serving the personnel and also to expand the membership to serve counties surrounding Topeka and during this time began service to Fort Riley Post personnel. In addition, the credit union agreed to merge with three other credit unions; Kansas Capital, State Welfare and American Yearbook to provide continuous service to these members. The credit union has continued to serve these members through the eventual merger with Kansas Credit Union in 1984.

Kansas Credit Union started out chartered in 1949 as the Kansas Highway Credit Union serving the employees of the Kansas Highway Commission. In the mid 1960's, the credit union was expanded to serve all employees of the State of Kansas. Later in the mid 1970's, the membership was extended to all who live and work in Kansas and the name amended to Kansas Credit Union. Service has been continual to these members through the merger with Forbes Credit Union.

Credit Union 1 of Kansas has a long history of serving members in every corner of the state without any geographic boundaries. Because of this history of services to throughout the state, one can easily see the benefit extended to all Kansans when the service was expanded in the 1970's to all Kansans. This certainly follows the language in our credit union law that allows for groups of both large and small membership.

The credit union currently provides access to member services through physical facilities in Topeka, Shawnee and Fort Riley. The credit union has always considered physical facilities vital to providing members with access to our services. While we continue to provide facilities within our means, we are cognizant of a significant shift in our member's desires for electronic channels of access. In a time when our members are asking the credit union to be more creative in how we provide access to member services, we find it ironic that the legislature is being asked to take away financial service alternatives for our members and citizens of Kansas. I would ask you to challenge whether any real issue exists, and especially one, which calls for you to consider changes that would impact the financial services available to every Kansan.

The changes proposed in **HB 2676** will reaffirm that the Kansas legislature supports a credit union's ability to provide financial services to consumers and a consumer's ability to choose who and where they receive financial services. **HB 2676** will allow Credit Union 1 to continue serving our members in the manner they are used to and will allow the credit union to bring in new members seeking to have the advantage of ownership of their financial institution. I would ask you to be careful to make no changes to the law that would lead to the credit union telling our members we can no longer serve them and they would have to leave our membership.

Specifically for Credit Union 1, any change to constrict the counties where we serve members means we would have to force members out of the credit union. I would not look forward to telling any of our members they are no longer able to belong to our credit union because they live in the wrong county.

I would like to end with a final observation that is both personal in nature but also represents our Board's thoughts. Currently in Kansas, in round numbers, the banking community has 76% of the market, the savings banks have 19% and the credit unions have 5%. These numbers are nearly the same on a national basis and have not substantially changed for a number of years. I would ask why are the credit unions targeted for such a small share of the total market? In my opinion, it is analogous to Wal-Mart targeting a small "mom and pop" operation.

Thank you for the opportunity to appear today. Again, I ask you to support credit unions and consumers by supporting HB 2676. I would be happy to stand for questions at your convenience.



Testimony In Support of HB 2676

John J. Federico

On Behalf of: The Kansas Credit Union Association

House Insurance & Financial Institutions Committee

January 30, 2008

I am John Federico, of Federico Consulting, appearing today on behalf of the Kansas Credit Union Association in support of HB 2676.

I want to thank you Mr. Chairman for making time available on your calendar to hold hearings on this extremely important bill. What's at stake? Essentially what amounts to a lifetime of work and community service for some of the credit union people behind me.

The folks set to testify after me from the credit union movement will walk you through the issue at-hand in a much better manner than I ever could. Before I turn it over to them though, I wanted to emphasize a few important points. I want to be clear that it was not the credit unions who came looking for a fight, but please know that the credit union managers, staff and volunteers behind me, representing some of the 550,000 or so credit union member/owners in Kansas, are not shying away from the opportunity to clarify the credit union statute and end the nonsense.

Why are we here? The banking community has been very active in the Capitol the last several years, and have been successful in directing *scrutiny* at the credit union statutes, specifically the interpretation thereof. In short, the banking associations have tried to convince legislators that Governor-appointed Credit Union Administrators, have interpreted the credit union statutes as they relate to field of membership, ... "too liberally and in possible violation of the law." As alleged by the banking community, this mis-interpretation has led to an illegal expansion of credit unions at the expense of the bankers' market share! A divided Interim Committee made a recommendation this fall, that perhaps it would be in everyone's best interest for the legislature to consider lending clarity to the credit union statute.

That leaves us, the credit union community and its member/owners, with only three options: 1) advocate that you do nothing, which although would be consistent with our belief that there is no problem that needs fixing, it doesn't remove you or them, from subsequent legislative battles. 2) Sit back and allow our competitors to introduce a bill that would narrow the statute and "constrict" *who* and *where* we can serve. A bill that would benefit banks, as it would restrict consumer-choice and force credit unions to sever long-standing relationships with many of their

House Insurance
Date: 1-30-08
Attachment # 3

member/owners, or 3) introduce our own bill that codifies and clarifies the credit union statute in a manner that is consistent with the long-standing interpretation of the statute. A statute that has been interpreted the same way over the last 60 years, under the watchful eye of the Attorney General's office, by 15 different banking and Credit Union Administrators.

So, credit unions from across the state ask that you support HB 2676 which again merely codifies the current interpretation of the statute and in a manner that credit unions have relied on in good faith, to serve the member/owners of their financial co-ops. We respectfully request that you advance the bill in its current form, free from any amendments that don't address the field of membership issue. We understand, all too well, the interest from our competitors, to get you to support the placement of a tax on credit unions. Please be reminded that that is a separate issue,...an issue the credit union folks are prepared to fight wherever and whenever they have to, to defend their unique structure as financial cooperatives!

The Kansas Banker's Association has labeled HB 2676 an "*Anyone – Anywhere*" credit union membership proposal. With all due respect, don't be fooled into thinking this is something it is not. This is NOT an expansion of power or authority for credit unions. HB 2676 leaves the interpretation of the statute to the Credit Union Administrator, not our competitors, to continue to make the decision of what is or is not an acceptable field of membership, taking into consideration the "safety and soundness" of the financial cooperative.

The absolute irony of this whole effort by our competitors to constrict where and who credit unions can serve, is that it comes at a time when banks are aggressively expanding their own financial universe and can be seen on just about every street corner, with payday lenders on every other one. Further, it comes at a time when competition is GLOBAL and Kansas consumers want *more* choice, *more* competition, and *more* convenience.

I know first hand that credit unions DO put people before profits. I know first hand that they are out there doing good things in the community and serving folks who have few options to get financial services. At the end of the day, when its time to vote on this bill we hope you consider what is best for Kansas consumers as you make your decision. I respectfully ask for your favorable consideration of HB 2676 in its original form. Thank you.



KANSAS CREDIT UNION ASSOCIATION

**Testimony for the
House Insurance and Financial Institutions Committee**

In Support of House Bill 2676

Testimony by:
Marla S. Marsh
President and Chief Executive Officer
Kansas Credit Union Association

Chairman Schultz and Members of the Committee:

I am Marla Marsh, president of the Kansas Credit Union Association, the trade association representing 87 state-chartered credit unions and 24 federally-chartered credit unions operating in Kansas. I am here today to ask for your support of HB 2676.

HB 2676 was introduced by credit unions for four reasons:

- HB 2676 addresses the recommendations set forth by the Interim Committee to clarify terms within the statute and by the Post Audit to change the statute to match current practice.
- HB 2676 is a simple codification of current practice. We are not asking for additional powers or any new authority.
- HB 2676 protects the rights of consumers to access a not-for-profit cooperative financial services alternative.
- HB 2676 ensures that no existing credit union member will be forced to sever their credit union relationship.

650 S. Westdale Drive
Suite 100
Wichita, Kansas
67209-2570
1-800-362-2076
Tel 316-942-7965
Fax 316-206-2203

Topeka Office
816 SW Topeka Blvd.
Topeka, Kansas
66612-1635
1-888-482-5282
Tel 785-232-2446
Fax 785-232-2730

Credit unions did not initiate this process. Credit unions have operated under the same field of membership statute since 1929. In fact, we have contended, and still do, that there is nothing wrong with the present statute.

However, for over three years, banking associations in Kansas have been trying to convince legislators in a variety of ways, including a post audit study, that credit unions have been growing at the expense of banks. The fact is that credit unions have maintained just a 5 to 6 percent market share for over a decade. The banking associations claimed that we have started taking away business loans while the truth is that banks have 99.7 percent of the business lending market leaving credit unions with only .3 percent. The banking associations have claimed that the credit union regulator had willfully ignored the statute when approving field of membership charters and

requests for expansion. The fact is that the present interpretation of the statute dates back to when credit unions were regulated by the bank commissioner's office and has been interpreted the same way by 15 regulators over a 60-year period. The attached legal opinion states that the regulators had good reason to interpret the statute and uphold the interpretation as they did.

Not satisfied, the banking associations asked that the Senate Financial Institutions and Insurance Committee request an interim committee to study "field of membership and relevance of its application today." Senator Ruth Teichman was appointed to chair the committee and held two full days of hearings, with both the banking and credit union community testifying. Testimony was also provided by post audit staff, legislative research staff and both industries' regulators. The result—not a finding that regulators did anything wrong or that credit unions should not be allowed to expand as they have, but merely a recommendation that there be a clarification of terms in the credit union statute.

The issue boils down to a few basic points:

1. After 60 years of consistent interpretation of the statute by 15 regulators, including bank commissioners, why is field of membership an issue now? No court rulings, no Attorney General opinion, no consumer outcry, only banking association accusations that credit unions are no different than banks. Credit unions were formed in 1929 as a cooperative alternative, different from other for profit financial services providers. And they continue to operate under that same "different" structure. Do credit unions issue stock to raise capital? No. Are credit unions owned by one or just a few stockholders? No, they are owned by all of the member/users of their services. Credit union boards serve without pay. Credit union CEO's and board members have no stock options as part of their compensation. If, as the banking associations contend, the cooperative financial institution structure has so many overwhelming advantages that banks can't compete, why don't banks convert to the not-for-profit cooperative structure of a credit union?
2. The banking associations continue to divert attention from the issue they raised—field of membership—to complain about branching, services offered and tax exemption.

Let's look at each of these accusations. Banks are branching from one side of the state to another. Two years ago the bank commissioner reported that the highest level of bank branching was from western and rural banks branching into urban areas to have a broader base of operation and ensure their continued service in the home communities. Diversifying to ensure continued service. Sounds like a good idea.

Banking associations contend that credit unions were never intended to provide such services as mortgages or member business loans. Nowhere in our statute does it prohibit credit unions from providing mortgages or business loans. In fact, some credit unions have been providing these services since they were first chartered. Unlike savings and loans that were restricted in the percentage of other consumer lending products they could offer, credit unions never had a percentage restriction on products until 1998 when Congress put a limit on business lending of 12.25 percent, unless the credit union qualified for grandfathering of their business lending program.

State-chartered credit unions were classified by the federal government and the IRS as 501(c)14 tax-exempt organizations. Credit unions earned that classification because of the structure—credit unions are cooperatives that do not raise capital by issuing stock. The tax exemption is not tied to services provided, who we serve, where we operate or how large the assets or membership becomes. Please refer to the attached IRS bulletin that clearly states why credit unions are tax exempt. Both the US Congress and the Kansas legislature have upheld this tax exemption repeatedly. Both the state and federal levels of government realized that since credit unions are owned solely by consumers, a taxation on credit unions is a direct tax on consumers.

3. Banking associations have asked the Kansas legislature repeatedly for powers, expansion and authorities. Last year, they asked for protection from Wal-Mart. They've asked for protection from realtors, insurance agents and Farm Credit. They asked for branching authority. They asked to be able to sell insurance and expand into other forms of business. They asked for a Subchapter S tax preference in 1997 and then asked in 2004 for an expansion of the number of shareholders so more banks could qualify for this preferential tax treatment. Now, nearly half of all Kansas banks are Subchapter S banks. They asked for parity with other state banks. And the list goes on.

Not once have credit unions lobbied against their requests for growth opportunities. We understand that in today's environment, consumers and governments want strong, healthy financial institutions. It is good public policy. Safety and soundness of our deposits and our credit portfolios demands that all financial institutions grow and have adequate capital. Credit unions can only build capital or net worth through earnings and growth. Any organization that is stagnant will die. Credit union regulators—starting with the bank commissioner—recognized that field of membership expansions were directly tied to protecting consumers. And, consumers' need for increased and varied financial services require growth.

4. This is truly a consumer issue. Consumers should have the right to choose who they do business with and where they do their financial services business. If they choose a cooperative financial services alternative, they should be able to access it. In the financial services environment we have today—with banks and payday lenders on every corner (sometimes three deep) and with Internet banking—it doesn't make sense that just one sector of the marketplace be restricted. When consumers are facing an economic and credit crisis, why would we want to restrict access to a consumer-friendly alternative?

- Is the financial services industry the same as it was in 1929 or 1950? No.
- Did banks change over those 80 years? Certainly.
- Did banks move from commercial to consumer products? Yes.
- Did banks move into mortgages and take market share away from savings and loans? Yes.
- Did banks branch from one side of the state to the other? Yes.
- Do banks have offices out of state? Sure.
- Have Kansas credit unions ever fought against the banking associations' request for expansions? No.

We must ask ourselves these questions:

1. Who is best served by further restricting credit unions—banks or Kansas consumers?
2. Have either banks or consumers been harmed by credit union growth?
3. If they succeed, will the banking associations' actions diminish the options available to consumers, especially those who are already underserved?
4. Why aren't we focusing on new, innovative ways to meet the changing needs of consumers, ones that help them with their financial well-being?

You will hear testimony from volunteers, members and management of several credit unions. Although each is different because they select their products and deliver their services according to what their owners—their members—want and need, they all have one thing in common. They are not-for-profit, financial cooperatives. What does that mean?

- They have no capital stock.
- They have no outside stockholders.
- Their boards are unpaid volunteers from the membership.
- Every member has only one vote regardless of the amount of money held in the credit union.
- Their membership is made up of everyday folks. Ninety-two percent of Kansas credit union members have household incomes less than \$75,000 and 77 percent earn \$60,000 or less per year. These everyday citizens need our help.

Credit unions have started to address today's special financial needs with programs like Real Solutions—Alternatives to Payday Lending. We have worked with the State Treasurer for the past four years to bring financial literacy camps to middle school children. We have partnered with Junior Achievement and the PBS stations to provide access to Biz Kids. Kansas State University Federal Credit Union received a national award for their Save at School programs. But there is so much more that needs to be done.

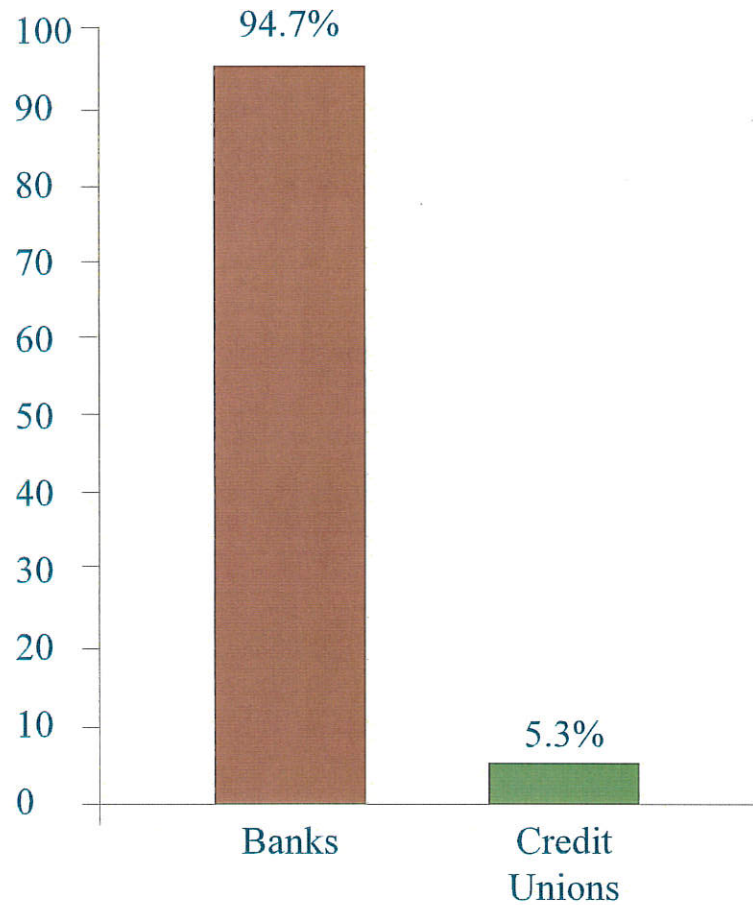
The future depends on the financial health of our citizens. Our time would be much better spent looking for ways to encourage consumers to save, to help consumers develop good financial management skills and to create products that entice them to use insured financial institutions.

Please make this about what is good for Kansas consumers. Just like the credit union motto, People Helping People, you can help consumers help themselves. Please support HB 2676.

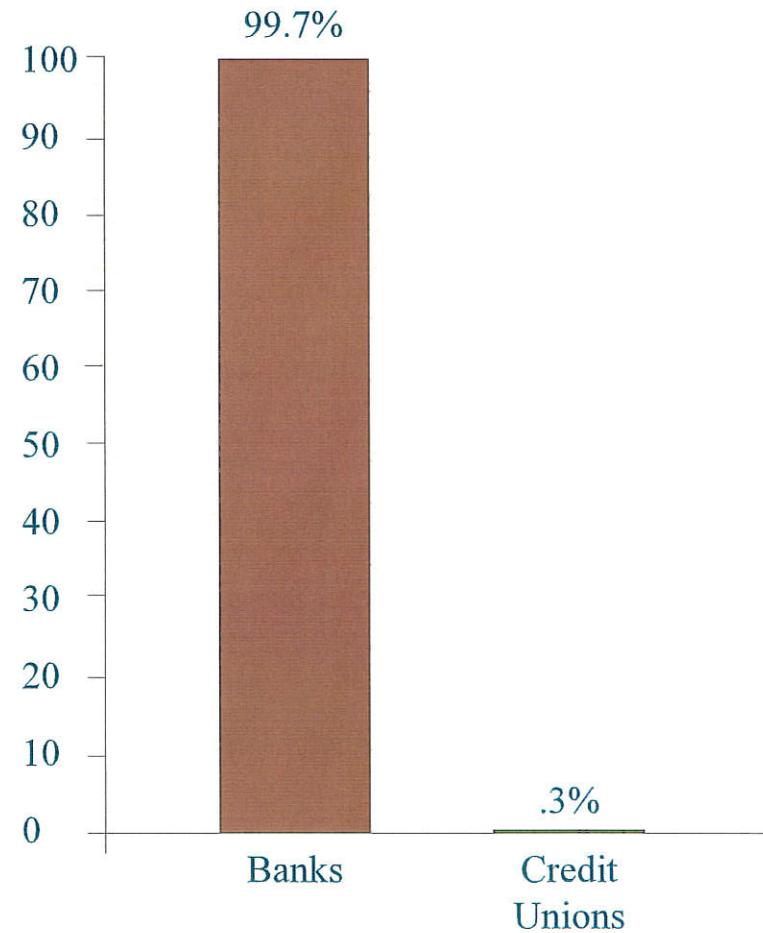
KANSAS MARKET SHARE

4-5

MARKET SHARE - ASSETS*



MARKET SHARE - BUSINESS LOANS*



* FDIC, NCUA and Hancock, et. al.

BLACKWELL SANDERS PEPPER MARTIN
LLP

4801 Main Street, Suite 1000 Kansas City, MO 64112
P.O. Box 219777 Kansas City, MO 64121-6777
Tel (816) 983-8000 Fax (816) 983-8080
WEBSITE: www.blackwellsanders.com

Maxwell Carr-Howard
DIRECT: (816) 983-8345

DIRECT FAX: (816) 983-9345
E-MAIL: mcarrhoward@blackwellsanders.com

September 18, 2006

Ms. Marla S. Marsh
President/CEO
Kansas Credit Union Association
610 S. Westdale Drive, Suite 100
Wichita, Kansas 67209

Re: Legislative Post Audit Committee Report Titled *Regulation of Credit Unions: Reviewing the Department of Credit Unions' Procedures for Ensuring Institutions' Safety, Soundness, and Compliance with the Law*
Our File No.: 58568-2

Dear Ms. Marsh:

You have asked us to give our opinion regarding the Legislative Post Audit Committee's (the "Committee") suggestion that the Kansas Department of Credit Unions has improperly interpreted the statutory limitation on credit union membership. The Committee's view is contained in the May 2006 Performance Audit Report entitled *Regulation of Credit Unions: Reviewing the Department of Credit Unions' Procedures for Ensuring Institutions' Safety, Soundness, and Compliance with the Law* ("Report").

We believe that the Committee has relied far too heavily on an interpretation of federal—not Kansas—law that was immediately repudiated by the United States Congress. In addition, the Committee has ignored important language in the Kansas statute itself, in reaching its conclusion.

It is our opinion that the Kansas Department of Credit Unions has reasonably interpreted the state law governing credit union membership to ensure the safety and soundness of the state's credit unions. This interpretation has created strong credit unions with the resources necessary to protect the interests of consumers, who are their members. Further, its action recognizes the Department's obligation under the act to protect the interests of the members of the credit unions by ensuring the financial soundness of each institution.

The federal case that the Committee focuses on to support its view is *National Credit Union Administration v. First National Bank & Trust Co. et al.*, 522 U.S. 479 (1998). That case found, in a five to four decision, that the then existing federal law required a *single* "common bond" between the members of a credit union based on their occupation or their residence in a

Ms. Marla S. Marsh
November 1, 2006
Page 2

well defined geographic area. *Id.* at 503. The mere fact that four of the justices disagreed with the majority's position makes it clear that the Committee's argument—supported primarily by this decision—is not as strong as they suggest in their Report.

More importantly, however, whatever the United States Supreme Court thought about the federal statute does not govern how the Kansas courts might interpret the Kansas statute nor does it help determine what the legislature intended when it enacted the statute in 1929. In our federal system the United States Supreme Court is not the final arbitrator on the meaning of our state's laws; the final arbitrator is the Kansas Supreme Court. *See Kansas Public Employees Retirement System v. Reuner & Koger Associates, Inc.*, 262 Kan. 635, 669 P.2d 1321, 1343 (1997) (holding that “[f]ederal court decisions on issues of state law are not binding on and have limited precedential effect in state courts”). This is a position long accepted by the United States Supreme Court. *Erie R.R. Co. v. Tompkins*, 304 U.S. 64, 78 (1938).

Indeed, the Committee has turned Kansas common law on its head by arguing that *federal* court decisions govern the interpretation of *Kansas* law. The Kansas Supreme Court has repeatedly held the contrary: “The interpretation of the laws . . . of Kansas by the Supreme Court of Kansas *is controlling upon the federal . . . courts.*” *Quality Oil Co. v. Du Pont & Co.*, 182 Kan. 488, 493, 322 P.2d 731 (1958). Since the *Erie* ruling, the federal courts have generally recognized that federal decisions cannot be “seriously suggested [as] an ‘informed prophecy’ as to the meaning of a state statute.” *Commerce Oil Refining Corporation v. Miner*, 303 F.2d 125, 128 (1962).

Thus, the significance of the cited split decision in the federal courts is of limited importance to the issue raised by the Committee and certainly is not “informed prophecy” as the Report appears to argue. Moreover, the Committee's suggestion that the wording of the federal statute is “nearly identical” to the state statute ignores a significant difference. The Kansas statute expressly contemplates that, even with the limitations it imposes, credit union membership will be both “large and small.” K.S.A. § 17-2205. The parenthetical including this language is acidulously left out of the Committee's quotation of the state statute. *Id.* (reading, in part, “shall be limited to groups (of both large and small membership) . . .”). This parenthetical anticipates the large memberships of which the Report complains.

In addressing the issue of multiple common bonds, the Committee ignores the requirement that the Department of Credit Unions establish rules and regulations to ensure the safety and soundness of credit unions—although it acknowledges that the Department contends that permitting multiple common bonds has “minimized the risk a credit union would experience severe financial problems.” Report at 15. In interpreting the intent of the legislature, the Kansas courts “are required to consider and construe together all parts” of a statute “and are not

Ms. Marla S. Marsh
November 1, 2006
Page 3

permitted to consider only a certain isolated part . . . of an act.” *Reuner*, 262 Kan. at 644, 941 P.2d at 1328 (citations omitted). The Committee should likewise look at the whole statute and determine the intent of the legislature in 1929 “from a general consideration of the entire act.” *Id.* at 643, 941 P.2d at 1328.

In the very first line of the Report, the Committee acknowledges that the “Department of Credit Unions was established in 1968 to oversee the safety and soundness of Kansas-Chartered Credit Unions. Report at *i*. Generally the Report gives the Department high marks for completing that mission and the vast majority of the Report is focused on preserving the soundness of the state’s credit unions. Report at 17-20; 24-24; 29-34.

Curiously, however, there is no significant discussion of how the section 17-2205 membership provision is impacted by the safety and soundness mandates contained in sections 17-2201, 2204a, 2206(b), (c), and (h), 2207, 2209, 2210, 2214, 2215, 2217, and others. Most of these provisions are easier to comply with the greater the financial resources available to the credit union. Likewise, the services that credit unions are authorized to provide are less likely to impact the soundness of a particular credit union the greater the resources of the union.

As the Department has recognized, the greater the membership, the greater the resources available to an individual credit union and the more sound that union will be. Report at 15. Taking this reality into account and recognizing that the membership provision must be interpreted along with a general consideration of the entire act, it is our view that the Department has reasonably interpreted the act to permit multiple bonds of occupation and geographic areas that cross county lines. Indeed, the rural nature of our state demands some flexibility if our citizens are going to join their financial resources together to form credit unions that can effectively compete in the modern marketplace.

It must be acknowledged that the Committee’s view that Section 17-2205 limits membership to a single common bond is one possible interpretation of the statute. But there is nothing on the face of the statute that expressly limits membership to a single common bond or that expressly limits membership to only a common bond or common geography. Indeed, the statute was originally adopted in 1929 and there is no available legislative history to tell us what was intended.

What is clear is that reasonable people can differ on whether the statute limits membership to a single common bond and whether membership can be based on both geographic limits and common occupations. Not only has the Department concluded that this is appropriate, its federal equivalent and four United States Supreme Court Justices concluded that this would be acceptable under the more narrow federal statute. Finally, it cannot be ignored that the United

Ms. Marla S. Marsh
November 1, 2006
Page 4

States Congress disagreed with the Supreme Court's majority opinion and promptly enacted legislation to reverse the result which the Committee relies upon.

Given the Department's mandate to ensure the safety and soundness of all credit unions, and the Department's reasonable conclusion that a larger membership has and will continue to ensure the soundness of the credit unions in Kansas, its decision to permit membership based on large geographic areas and on multiple common bonds is reasonable and in compliance with state law. Moreover, there is nothing in the state statute that expressly prohibits the Department's view and the Committee's reliance on the now repudiated Supreme Court opinion is misplaced.

Sincerely,

Maxwell Carr-Howard

MCH/sm

501(c)(14) — Credit Unions and Other Mutual Financial Organizations

If your organization wants to obtain recognition of exemption as a credit union without capital stock, organized and operated under state law for mutual purposes and without profit, it should file an application including the facts, information, and attachments described in this section. In addition, it should follow the procedures for filing an application described in chapter 1.

Federal credit unions organized and operated in accordance with the Federal Credit Union Act, as amended, are instrumentalities of the United States, and therefore, are exempt under section 501(c)(1). They are included in a group exemption letter issued to the National Credit Union Administration. They are not discussed in this publication.

State chartered credit unions and other mutual financial organizations may file applications for recognition of exemption from federal income tax under section 501(c)(14). The **other mutual financial organizations** must be corporations or associations without capital stock organized before September 1, 1957, and operated for mutual purposes and without profit to provide reserve funds for, and insurance of, shares or deposits in:

1. Domestic building and loan associations,
2. Cooperative banks (without capital stock) organized and operated for mutual purposes and without profit,
3. Mutual savings banks (not having capital stock represented by shares), or
4. Mutual savings banks described in section 591(b).

Similar organizations, formed before September 1, 1957, that provide reserve funds for (but not insurance of shares or deposits in) one of the types of savings institutions described in (1), (2), or (3) above may be exempt from tax if 85% or more of the organization's income is from providing reserve funds and from investments. There is no specific restriction against the issuance of capital stock for these organizations.

Building and loan associations, savings and loan associations, mutual savings banks, and cooperative banks, other than those described in this section, are not exempt from tax. However, certain corporations organized and operated in conjunction with farmers' cooperatives can be exempt.

Application form. The Internal Revenue Service does not provide a printed application form for the use of organizations described in this section. Any form of written application is acceptable as long as it shows the information indicated in this section and includes a declaration that it is made under the penalties of perjury. The application must be submitted in duplicate.

State-Chartered Credit Unions

Your organization must show on its application that it is formed under a state credit union law, the state and date of incorporation, and that the state credit union law with respect to loans, investments, and dividends, if any, is being complied with.

A form of statement furnished to applicants by the Credit Union National Association is acceptable in meeting the application requirements for credit unions, and may be used instead of the statement form of application just described. The following is a reproduction of that form.

Claim for Exemption from Federal Income Tax _____ (Date)

The undersigned _____ (Complete name) Credit Union, Inc., _____ (Complete address, including street and number), a credit union operating under the credit union law of the State of _____, claims exemption from federal income tax and supplies the following information relative to its operation.

1. Date of incorporation _____.
2. It was incorporated under the credit union law of the State of _____, and is being operated under uniform bylaws adopted by said state.
3. In making loans, the state credit union law requirements, including their purposes, security, and rate of interest charged thereon, are complied with.
4. Its investments are limited to securities which are legal investments for credit unions under the state credit union law.
5. Its dividends on shares, if any, are distributed as prescribed by the state credit union law.

I, the undersigned, a duly authorized officer of the _____ Credit Union, Inc., declare that the above information is a true statement of facts concerning the credit union.

S i g n a t u r e _____ o f
Officer _____ Title _____

Other Mutual Financial Organizations

Every other organization included in this section must show in its application the state in which the organization is incorporated and the date of incorporation; the character of the organization; the purpose for which it was organized; its actual activities; the sources of its receipts and the disposition thereof; whether any of its income may be credited to surplus or may benefit any private shareholder or individual; whether the law relating to loans, investments, and dividends is being complied with; and, in general, all facts relating to its operations that affect its right to exemption.

The application must include detailed information showing either that the organization provides both reserve funds for and insurance of shares and deposits of its member financial organizations or that the organization provides reserve funds for shares or deposits of its members and 85% or more of the organization's income is from providing reserve funds and from

investments. There should be attached a formed copy of the articles of incorporation or other document setting forth the permitted powers or activities of the organization; the bylaws or other similar code of regulations; and the latest annual financial statement showing the receipts, disbursements, assets, and liabilities of the organization.

501(c)(19) — Veterans' Organizations

A post or organization of past or present members of the Armed Forces of the United States may file Form 1024 to apply for recognition of exemption from federal income tax. You should follow the general procedures outlined in chapter 1. The organization must also meet the qualifications described in this section.

Examples of groups that would qualify for exemption are posts or auxiliaries of the American Legion, Veterans of Foreign Wars, and similar organizations.

To qualify for recognition of exemption, your application should show:

1. That the post or organization is organized in the United States or any of its possessions,
2. That at least 75% of the members are past or present members of the U.S. Armed Forces and that at least 97.5% of all members of the organization are past or present members of the U.S. Armed Forces, cadets (including only students in college or university ROTC programs or at armed services academies) or spouses, widows, or widowers of any of those listed here, and
3. That no part of net earnings benefit any private shareholder or individual.

In addition to these requirements, a veterans' organization also must be operated exclusively for one or more of the following purposes.

1. To promote the social welfare of the community (that is, to promote in some way the common good and general welfare of the people of the community).
2. To assist disabled and needy war veterans and members of the U.S. Armed Forces and their dependents and the widows and orphans of deceased veterans.
3. To provide entertainment, care, and assistance to hospitalized veterans or members of the U.S. Armed Forces.
4. To carry on programs to perpetuate the memory of deceased veterans and members of the Armed Forces and to comfort their survivors.
5. To conduct programs for religious, charitable, scientific, literary, or educational purposes.
6. To sponsor or participate in activities of a patriotic nature.

House Committee on Insurance and Financial Institutions

House Bill 2676

Testimony of Roy Doonan
Manager of Credit Union of America
Great Bend Branch

January 30, 2008

- I am here to testify in support change of House Bill 2676 which clarifies the language for membership for credit unions in Kansas.
- I maintain to be successful as a lender, or leader, you must have compassion for, and be willing to serve your fellow man, including those of modest means.
- I started with Credit Union of America December 1998.
- I have been in the lending industry since November 1964, working for a variety of banks, including, Bank of America, FKA NationsBank, FKA Boatman's Bank, FKA Bank IV, FKA Emprise Bank, FKA Hutchinson National Bank, whom I went to work for January 1984.
- Credit Union of America starting in Wichita in 1935 as the Wichita City Teacher's Credit Union, and came to Great Bend in 1975. We are now a community based credit union.
- Prior to December 2005, the field of membership in the Great Bend area *was* to live or work in Barton or Pawnee County or work in the field of education, or of the immediate family of a member of Credit Union of America. Our main office is in Wichita where their base communities *were* Sedgwick, Butler, Harvey, Kingman, Harper, and Sumner Counties.
- In 2005, we expanded our base communities to be able to serve residents of the following Kansas counties: Stafford, Rush, Ellis, Russell, Ellsworth, Rice, Reno, Salina, McPherson, and Cowley, or work in the field of education within the state of Kansas, or of the immediate family of a member of Credit Union of America.
- Today, Credit Union of America is the only free standing credit union in Barton, Stafford, Pawnee, Rush, Russell, or Rice County, which is the primary area of the Great Bend office. We currently have approximately 5,100 members in the Great Bend branch. Obviously some have moved to other areas, but once a credit union member, as long as you do not close your membership, you are still eligible to utilize our services.
- Being from western Kansas, I look at credit unions much like a farmers COOP. We function a lot the same way as well as enjoy some of the same benefits and as a matter of fact, a lot of credit unions started out as a Farmers COOP Credit Unions. And like Coops, sometimes merge with other credit unions to establish a stronger base or capital account.
- I feel your constituents should be offered a *choice* of financial institutions, and as you know Pay Day Lenders, Insurance Companies with checking accounts and loans, Brokerage firms with checking accounts, Wal-Mart, etc. are in most communities as well as banks and credit union giving everyone the opportunity to have their financial needs served.
- In Great Bend, we offer free financial counseling, free assistance with members in setting up their budget, free assistance in paying their bills, Pay day loans at 17.5% or less interest, Teacher Grants for teachers, support many many activities in our area that are centered around our youth or in helping people without regard for recognition or reward.
- ***We sincerely ask you to take action on House bill 2676 supporting the changes as drafted, without any further changes or amendments.***
- I thank you for the opportunity to tell my story.

House Insurance
Date: 1-30-08
Attachment # 5

Testimony for the House Insurance and Financial Institutions Committee

Regarding House Bill 2676

Testimony by:
Dr. Ralph E. (Jack) Chalender
Chairman of the Board of Directors
Credit Union of Johnson County
January 30, 2008

Chairman Shultz and members of the committee, I am Jack Chalender, Chairman of the Board of Directors for Credit Union of Johnson County and I am here today to also ask for your support of **HB 2676**.

But first let me give you a background of myself and the Credit Union of Johnson County. I have lived in Johnson County for over 40 years. During all of that time I have been associated with schools. I started out as a teacher, became a Principal and later an Administrator. It was while I was a very young teacher that I found out about the credit union. My wife and I were in need of a refrigerator. I was told to see Doc Watson at school. After speaking to Doc and filling out the necessary paper work, I was instructed to see the band teacher and he would have the money for my new refrigerator. I was grateful then for what the credit union did for my fellow teachers and me and I am still proud today for what we do for all of our members.

I have been a member of the board for 35 years. I have been chairman for 30 of those years. I have seen a lot change with the Credit Union of Johnson County. We started out as the Northeast Johnson County Teachers Credit Union, serving school employees in the northern part of the county. As Unification occurred in the school districts we became Johnson County Teachers Credit Union serving all school personnel in the county.

Over the years, for purposes of efficiency, we merged with other credit unions. Through these mergers we started serving employees of the Gas Service Company, Water District #1, and the Coca Cola Bottling Company. At the same time we had major companies in the county approach us to serve their employees. You see, it was then, and is now, very difficult to start a credit union. Some of these companies were HD Lee, Montgomery Wards and Shawnee Mission Medical Center. Today we serve over 100 different companies. Each time one of these companies approached us we had to apply to the State Department of Credit Unions for an expansion of our field of membership. After many of these requests it was suggested by the department that we change our field of membership to include the entire county. So, in the early 70s we became Credit Union of Johnson County serving anyone living or working in the county.

In 2005, we changed our field of membership to be the Kansas City Metropolitan Statistical Area or MSA. MSAs are recognized by the federal government as being a well defined geographic area. The Kansas City MSA is made up of 15 counties. This change allows us to serve the ever growing population of workers who come to Johnson County every day to work. In the future it will allow us to build branches closer to where these members live, a request we hear all the time.

With the advent of the internet and electronic services, such as home banking and ATMs, physical geographic boundaries have become blurred. Banks are constantly trying new ways to reach their customers in ways that are convenient for the customer. In this way Credit Unions are no different than banks. To provide these electronic services economically, Credit Unions must have the means to expand. Over the years the Kansas Department of Credit Unions has recognized this need and granted field of membership expansions.

House Bill 2676 will reaffirm that the Kansas legislature supports the Kansas consumers right to choose who and where they receive financial services. **HB 2676** will allow our credit union to continue to grow and serve our members. It will allow us to continue to provide the services our members want in today's financial market

Thank you for the opportunity to appear today. Again, I ask you to support credit unions and consumers by supporting HB 2676.

To the
**House Insurance and Financial
Institutions Committee**
on
House Bill 2676

Raymond Stroud
President/CEO
Credit Union of Dodge City

January 30, 2008

Chairman Shultz and members of the committee, I am Raymond Stroud, President/CEO of the Credit Union of Dodge City. I am here today to ask for your support of HB 2676.

HB 2676 updates credit union law to clearly reflect the interpretations of 15 bank and credit union regulators over the past 60 years. I attended the recent legislative interim committee hearings and the changes proposed in HB 2676 address the interim committee's request that the issue of credit union field of membership be addressed in the regular legislative session.

In January 1939, a group of people who were associated with the Dodge City Cooperative Exchange determined there was a need for a financial cooperative to serve the community in which they lived. These charter members formed the Exchange Federal Credit Union. Our founder, Mr. Henry Peterson, called the first regular monthly meeting to order on January 5, 1940. The original field of membership included: members, patrons, employees and family members of the Dodge City Coop.

Just as the Dodge City Coop has grown and has expanded services and added grain elevators through out southwest Kansas, so has our financial cooperative, the Credit Union of Dodge City, with two offices in Dodge City and one in Cimarron. The opportunity to serve a larger community has been provided by the current field of membership statute.

Today the Credit Union of Dodge City is open to provide financial services to its own members as well as any person within our field of membership who chooses us for their financial services. Our field of membership is delineated specifically to those who live or work within 100 miles of Dodge City. There are 28 county seats whose combined populations of 155,000 plus are located within our field of membership.

House Insurance
Date: 1-30-08
Attachment # 7

The Credit Union of Dodge City is involved in our community in many ways. Several years ago we began the Coats for Kids program providing winter coats to students at our local schools. More than 500 coats each year are provided to families in need. The Credit Union of Dodge City is a Founder Member of the Community Foundation of Southwest Kansas. In 2006 we sponsored the first annual Great Quack Attack during Dodge City Days and have helped raise more than \$30,000 to assist The Alley, a youth community center. There are many other organizations we support.

12 days from today, the Credit Union of Dodge City will be opening its first new branch in Dodge City since 1997. This branch will provide short-term payday loans and check cashing services. We are calling this new services branch, Instant Cash *Plus*. We will offer our members and our community a much less expensive payday loan *Plus* all of the benefits and services of our credit union. The new office contains conference room space where we will begin providing financial education and consulting opportunities for our members. Financial literacy classes such as home financing, purchasing a car and personal family budgeting will be provided. I am looking forward to the day when we can look back and see that we have truly made a difference to our members and our community and have helped them become better financially fit.

Any efforts to restrain the growth of or categories of field of membership by statute other than HB 2676 could dramatically affect ours and other credit union's opportunities for growth and limit the citizens of southwest Kansas the opportunities to use the financial services institution of their own choosing.

You may ask, "How do credit unions compete and grow even as their fields of membership overlap?" Credit unions work together in supporting each other and share local and national service networks. We are members of our Kansas Corporate Credit Union and many are members of shared services branches and shared ATM networks.

I can best illustrate the nature of credit unions cooperative efforts by telling you about one credit union in Oklahoma. All of you remember April 19, 1995 when a terrorist bomb destroyed the A.P. Murrah Federal Building in Oklahoma City. The Federal Employees Credit Union had its only office located on the third floor. The credit union was completely destroyed on that unforgettable day. 18 of their 33 employees were killed, six were hospitalized long term and the remaining escaped with minor injury or were not in the building. The credit union reopened its teller line just 48 hours after the bombing with surviving employees and volunteers from several credit unions in Oklahoma. Less than two months later the credit union reopened in a new office only because more than 20 different credit unions loaned more than 80 of their own employees to work and support the reconstruction process. These were credit unions ranging in size from the smallest to the largest in Oklahoma. Hundreds of credit unions nationwide provided funds and other support to the credit union, its members, employees and employees' families. Today Allegiance Credit Union is thriving and serving its members in the greater Oklahoma City area.

The story told here is that credit unions don't just serve their own members but credit unions live the motto of "People Helping People" with each other. I can tell you about the efforts and support and cooperation that took place in Oklahoma City because I was there. The credit union president and I were the only surviving managers and had the privilege to work side by side with other credit unions to recover the credit union and serve its members and to witness these extreme cooperative efforts. I am passionate about the work of credit unions, credit unions in Kansas and particularly for the Credit Union of Dodge City. We all exist to serve our members and we will all work together to protect the long-standing rules that have allowed Kansas credit unions to grow.

I hope that my story here today illustrates that the current field of membership rules have worked and have provided the Credit Union of Dodge City the opportunities to grow just as our original sponsor group has grown. Any legislation that might reduce or restrict our opportunities to grow could be detrimental to our future success.

I hope that my testimony has shown that credit unions serve their member/owners, their communities and each other even when they share a field of membership. The citizens of Kansas should have the right to choose their financial services provider even when it means choosing from several credit unions.

Again, HB 2676 reaffirms that Kansas's credit unions will have the ability to provide financial services to consumers and consumers will be able to choose who and where they receive financial services. HB 2676 will allow the Credit Union of Dodge City to continue serving our members tomorrow in the same way we do today. I would ask you to make no changes that result in the credit union telling our members we can no longer serve them.

For the Credit Union of Dodge City, any change to limit the counties where we serve members means we would have to force members out of the credit union. I have no interest in telling any of our members they have to leave the credit union because they live in the wrong county.

Thank you for the opportunity to appear today. I ask you to support HB 2676 without amendment. I will try to answer any questions you might have for me.

Testimony on Behalf of Cessna Employees Credit Union

Before the

House Committee on Insurance and Financial
Institutions

In support of House Bill 2676

January 30, 2008

House Insurance
Date: 1/30/08
Attachment # 8

Mr. Chairman, Members of the Committee

My name is Larry Damm. I am President of Cessna Employees Credit Union in Wichita. Our credit union serves the employees and retirees of Cessna Aircraft Company and members of their family. We have offices in Wichita and Independence. We might be considered what has been referred to over the last several months as "a traditional" credit union, in that our membership is based on a single sponsor group. So why am I here? Some of my friends in banking have told me, "We don't have a problem with credit unions like yours!"

Well, I've been in the Cessna family for over 30 years. I came to the credit union from the sponsor company. I have been involved in the ebb and flow of the aviation industry. Back in the 80's, I was directly involved in the painful process of reducing the employment of Cessna from 15,000 down to 3,000. Fortunately our credit union survived. Cessna was acquired by General Dynamics, then later Textron. The management of Cessna has continued to support the mission of CECU and considers us to be an integral part of the benefit package to their employees.

Others in our industry were not so lucky. Many of my colleagues here today had to make fundamental changes to their membership base to remain financially safe and sound. They did not abandon their members simply because the sponsor company went away or the management philosophy changed. To protect our 15,000 members, I would like to have the same flexibility. To be viable, any business must have the POTENTIAL for growth and not be forced to wilt away.

So what about the bill before you? Over the past couple of years, others have contended that some credit unions have unbridled growth. As you've heard, the market share of credit unions for financial services has remained unchanged for years. They contend that the Department of Credit Unions is not properly interpreting the membership statute as it is written. Perhaps it is vague and ambiguous. The proposed statute simply eliminates the

ambiguity and codifies the reasonable practices of the last several decades and even prior to the establishment of a separate Credit Union Department.

These same folks have said that credit unions should stay true to their original mission. Credit unions should be operating the same way that we were 40 or 60 years ago. If that were true, credit unions would be irrelevant today. But if all financial institutions were forced to operate the same as they were 40 or 60 years ago, ALL would be irrelevant. Technology has changed, consumer demands have changed, the business environment has changed. Bank branching was once not allowed and now there seems to be one on every corner.

And behind this screen about the field of membership continues to be what some have called "the level playing field". I find it ironic that we are talking about a "level playing field" in Kansas!

What the heck is a level playing field? Will it be necessary to dissect each and every component of the financial services market and corporate structure to see if things are "level"? Should we need to examine the fundamental differences between "for profit" and "not for profit", the means available to raise capital, the regulatory limitations on various products or services that may exist between the players? And what about all the new players in financial services? The insurance companies and brokerage houses are becoming formidable competition. Folks can now get all kinds of financial services through the internet. What about WalMart, Sears, and even Dillon's?

And finally, where is the consumer in this? From what I hear, members Love their credit unions. I also hear that customers Love their banks! So let's keep the choice open. The American economy was built on free trade. My friends, credit union membership is not a problem. If clarifying the membership statute is important to eliminate ambiguity, then move this bill forward with little fanfare and no amendments. Then get on with the business of government in addressing the real issues facing Kansans. Thank you.

Questions?

Testimony for the
Kansas House
Insurance and Financial Institutions
Committee

January 30, 2008

By

Gary Regoli
President/CEO
Boeing Wichita Credit Union

My name is Gary Regoli, and I'm President/CEO of the Boeing Wichita Credit Union, or as we're more commonly known, BWCU. I am here representing the collective voices of more than 53,000 BWCU member-owners who represent over 41,000 Kansas households (Schedule 1). That number includes 8,000 households living in the districts represented by the members of this Committee (Schedule 2).

November, 1986

In 1986, when BWCU had approximately 16,000 members and \$70,000,000 in assets, The Kansas Department of Credit Unions (KDCU) approved a bylaw amendment (Attachment 1) that changed our field of membership from:

- ◆ Individuals on the Boeing Wichita payroll and their spouses and Boeing Wichita retirees and their spouses to include:
 - ◆ Extended family members of The Boeing Company employees or retirees such as:
 - parents
 - children
 - grandchildren
 - ◆ Some Boeing related organizations and associations.

In other words, we could then serve any Boeing Company employee, retiree or extended family member thereof located in or outside of Kansas, even if the extended family member had never worked for

Boeing, as long as they were not eligible to join another Boeing affiliated credit union.

This change also eliminated the requirement for membership termination if an employee left Boeing by enabling a “once a member/always a member” qualification for members in good standing. All of this opened up membership to an extended group of Boeing related people in order to:

1. Stabilize the credit union when Boeing employment decreased – this was a safety and soundness initiative and was around the time when other financial institutions were in crisis;
2. Make it easier to collect delinquent loans from members versus ex-members;
3. Provide a better growth and retention environment for Credit Union staff.

June 1994

In 1994, another request to expand our field of membership was granted by the KDCU (Attachment 2). At that time BWCU had around 22,000 members and \$137 million in assets. The expanded field of membership included Sedgwick and its six contiguous counties. The main reason for this request was a need for a more diverse membership that would “provide a more solid base from which to do business” and to “give our current long-term members the added security of an additional membership not so dependent on the economic upswings and downturns

of a specific industry” (Attachment 3). Economic downturns, which could result in layoffs at Boeing, could have had an adverse impact on the quality of the loan portfolio and overall financial stability thus potentially threatening the Credit Union’s safety and soundness.

November 1999

Over eight years ago, our most recent request to expand our field of membership was approved by the KDCU (Attachment 4). It permits us to serve consumers in 46 Kansas counties. At that time BWCU had 40,000 members and around \$247 million in assets. As you know, business models were changing in America as the effects of a global economy began having its rippling affect on U.S. businesses. Seeing all of this transpire, and understanding the safety and soundness issues that could be avoided in the future, BWCU decision-makers desired to expand its field of membership beyond the Wichita area to further stabilize our base and reduce risks associated with the economic dependency of Wichita and the immediate area on the shrinking aircraft industry.

Wisdom in Leadership

In all of this, the BWCU Board of Directors and the KDCU’s foresight was particularly borne out during the post 9/11 economic downturns. BWCU felt no negative impact, even during the past several years when aircraft industry employment dropped significantly. Amidst the downturn, we were even offering our free “Financial Guidance Program” to hundreds of Boeing and non-Boeing aircraft industry employees whose

income had been interrupted due to layoffs. I will always remember an engineer that personally pulled me aside and thanked me for this program and told me that financially he survived his own layoff period mainly because of our assistance. Our resilience was, in part, directly related to the diversity of the membership base we had acquired from the mid- 1990's through the early 2000's.

2008

Today, BWCU operates 13 branches in Wichita, Derby, Haysville, Andover and Lawrence with plans for additional branches over the next few years. We have grown from \$70 million in assets in 1986 to just under \$520 million in assets as of December 31, 2007. As credit unions go, even though we are the largest Kansas chartered credit union, we would be considered medium sized in many states, including every state that touches Kansas' borders except Nebraska. Branching and expansion remains an important component of any progressive bank, thrift or credit union's future viability. Many financial institutions are actively adding branches in markets like Wichita, Topeka, Lawrence and Kansas City to grow, expand their outreach and execute their own business plans – not to mention other competitors like payday lenders and retailers that provide banking services who expand whenever and wherever their business strategies call for expansion. Also, out of state financial institutions are expanding their reach in Kansas. But branching means more than business plan execution to us.

Through the years, our resulting success has enabled us to hire people who are experts in their respective fields. Besides providing top level products and services, these professionals have lent their expertise to other Kansas credit unions in areas such as training in lending and teller operations, loan collection and business loan processing. The economies gained from our growth have also permitted us to offer a long list of free community services that include but certainly are not limited to:

- ◆ financial education for youth and adults in various settings;
- ◆ identity theft prevention education;
- ◆ debt reduction, money & budgeting seminars;
- ◆ investment and saving for college seminars;
- ◆ first time homebuyer seminars that among other things, educate consumers about the pitfalls of sub-prime debt;
- ◆ elementary and secondary school financial education;
- ◆ an extremely successful Financial Survival day-camp for 6 – 8th graders which is expanding to Lawrence this summer – a set of parents, one an attorney and one a school teacher, said that they are “glad to have BWCU in their lives” as a result of one of their children putting into practice something they learned at one of our camps last summer;
- ◆ mobile branch deployments to community events and schools;
- ◆ Three months ago we rolled out our Salary Advance Program which is a true payday loan alternative product. This program is designed to

offer a reasonably priced micro-loan alternative that can help a member escape the endless small debt cycle in which many payday loan users find themselves trapped. In offering this product we have recognized our ability and responsibility to reach out to a segment of the market that other financial institutions do not want to serve.

In the past two years alone, almost 1,000 people have attended free workshops or educational sessions offered by BWCU staff.

Our motivation for providing these services is not because of a tax credit, tax deduction or Community Reinvestment Act requirements, but because we are a credit union. Our success has provided economies of scale have enabled us to absorb the costs associated with these outreaches. Most importantly they are a part of our mission and purpose and we intend to continue to reach out as much as possible with the same fervor to consumers, young and old, wealthy and financially challenged alike, in all of the communities we serve.

BWCU prides itself on operating within the letter – and the spirit – of the law and doing the right thing. Some would like to change the Credit Union law to hinder BWCU, a viable and successful Kansas entity. Doing so would contradict the Governor's appeal when she stated in her State of the State address on January 14, 2008 that we should "once again aim for the stars". As you all heard, she went on to say "let us join together, roll up our sleeves, and re-dedicate ourselves to working for a better Kansas." The expansions of our field of membership were

innovative and in the best interest of BWCU's members, Kansas consumers and Kansas workers. It enabled a Kansas born and grown entity, BWCU, to thrive. Our expansions continue to be in Kansas' best interest today and will be for the foreseeable future. As we all have heard, if any business entity is standing still and not growing today, it is flirting with its own demise tomorrow. Key components of our strategic plan, mission, vision and values are based on our field of membership.

Again, on behalf of 53,000 BWCU member-owners, and other Kansans who deserve options when choosing their financial services provider, I thank you for this opportunity to address the Committee. I am available to answer any questions you may have.

Schedule 1
BWCU Members by County
(12-31-2007)

<u>County</u>	<u>Members</u>	<u>County</u>	<u>Members</u>
Allen	10	Leavenworth	46
Anderson	19	Lincoln	27
Atchison	7	Linn	7
Barber	10	Lyon	99
Barton	20	Marion	180
Bourbon	1	Marshall	8
Butler	3355	McPherson	267
Chase	18	Meade	1
Chautauqua	15	Miami	29
Cherokee	3	Mitchell	38
Cheyenne	1	Montgomery	22
Clay	20	Morris	17
Cloud	112	Nemaha	5
Coffee	20	Noesho	12
Comanche	6	Ness	2
Cowley	1013	Osage	24
Crawford	11	Osborn	3
Decatur	1	Ottawa	52
Dickinson	84	Pawnee	11
Doniphan	2	Philips	2
Douglas	799	Pottawatomie	42
Edwards	4	Pratt	23
Elk	54	Rawlins	2
Ellis	10	Reno	659
Ellsworth	40	Republic	13
Finney	3	Rice	88
Ford	6	Riley	140
Franklin	158	Rooks	1
Geary	93	Russell	4
Gove	2	Saline	666
Grant	1	Scott	2
Gray	5	Sedgwick	29229
Greenwood	121	Seward	7
Hamilton	1	Shawnee	144
Harper	132	Sheridan	1
Harvey	761	Sherman	2
Hodgeman	1	Smith	3
Jackson	7	Stafford	10
Jefferson	46	Sumner	1332
Jewell	3	Thomas	4
Johnson	494	Trego	4
Kingman	218	Wabaunse	12
Kiowa	2	Washington	12
Labette	6	Wilson	12
Lane	2	Woodson	20
		Wyandotte	114
Subtotal	7697		33398

Grand total 41095

Schedule 2

House Insurance and Financial Institutions Committee

Rep. Brown, Vice Chair	136
Rep. Burroughs, Member	20
Rep. Carlson, Member	47
Rep. Colyer, Member	18
Rep. Dillmore, Ranking Minority Member	899
Rep. Oletha Faust-Goudeau, Member	820
Rep. Goico, Member	1601
Rep. Grant, Member	2
Rep. Holmes, Member	43
Rep. Humerickhouse, member	64
Rep. Kiegerl, Member	39
Rep. Landwehr, Member	1125
Rep. Wetta, Member	806
Rep. Masterson, Member	2164
Rep. Peck, Member	14
Rep. Neighbor, Member	14
Rep. Shultz, Chair	188
Grand Total	8000

from Cheryl M. Bishop

reply

date



kansas state department of credit unions

503 kansas avenue room 342
topeka, kansas 66603
(913) 296-3021

subject Bylaw Amendment

date November 25, 1986

to Mr. Gene Swan, CEO
Wichita Boeing Employees Credit Union
P. O. Box 7730
Mail Stop K30-34
Wichita, KS 67277-7730
message

I am enclosing an approved copy of your bylaw amendment that expands your field of membership. Please keep this amendment attached to your present bylaws so they can be checked by the examiners on their next visit to your credit union.

Thank you

cc: KCUL

signed

to reply, keep yellow copy and return white

ATTACHMENT 1



Kansas State Department of Credit Unions

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

June 24, 1994

Mr. Gene Swan, CEO
Boeing Wichita Employees Credit Union
2900 South Oliver
Wichita, KS 67210-1596

Dear Gene:

Attached to this letter is an approved copy of your bylaw amendment that amends Article III, Section 1 of your bylaws to include individuals who reside or work in Sedgwick, Butler, Cowley, Sumner, Reno, Kingman and Harvey counties. As you will notice, the copy being returned to you is a copy and not the original. When our office receives only one original, we keep that original for our file and return a copy to the credit union. If you wish an original for your file, please submit another original and I will sign and return it for your file.

You are to be commended for the time and thought put into the "Application for Change of Geographic Area". The completeness of this form was appreciated.

If our office can be of any further help, please call.

Sincerely,

John P. Smith
Administrator

JPS/cb

Enclosure

ATTACHMENT 2



A Message From Your CEO

Expanding Our Field of Membership

As you have probably noticed, the news has been filled with reports of changes in the financial community.

While your Boeing Wichita Employees Credit Union hasn't made the six o'clock news, your Board of Directors and staff have been quietly affecting some major policy and operating alterations for the benefit of our members.

In June, the Kansas State Department of Credit Unions approved the BWECU Board of Directors' request to expand our field of membership.

Now, Boeing Wichita Employees Credit Union members may include not only current Boeing employees and retirees, but also relatives of BWECU members, and people who live or work in Sedgwick, Butler, Cowley, Sumner, Kingman, Reno and Harvey counties.

Opening our membership to these select groups provides a number of benefits which will improve both the scope and quality of our service to current and future members.

An increased, more diverse membership will provide us with a more solid base from which to do business. This expansion will also give our current and long-time members the added security of an additional membership not so dependent on the economic upswings and downturns of a specific industry.

A broader membership base will also allow us to improve existing services and create new opportunities for all our members. Now that we are able to accept new members from the community, we will explore the feasibility of additional locations.

In addition, we will be able to take our services into the community. For example, your Board of Directors just approved placing Automated Teller Machines in two Walmart stores — Derby and West Kellogg.

We're all familiar with the term "growing pains," but we can only foresee growing pleasures with our credit union and the services we provide to you, our members, throughout the '90s and into the next century. Please, invite your friends and neighbors to come grow with us.

Gene Swan

Coming Soon

TWO ADDITIONAL ATMs

Continuing our commitment to improve convenience for our members, we are scheduled to have two additional ATMs installed at the Boeing Plant in late November or early December. These new machines will be located near the cafeteria of Materials Building KK-41 and 190Z.

FOR YOUR CONVENIENCE, ATMs ARE LOCATED AT:

- 2900 S. Oliver (*Main Office*)
 - Plant II (*Branch Office*)
- Nacelle Building (*near cafeteria*)
 - IBP #3 (*near cafeteria*)

COMING SOON!

- 190Z Building (*near cafeteria*)
- Materials Building KK-41 (*cafeteria entrance*)

PLEASE REMEMBER!

You incur *no service charges* when using machines owned by BWECU. However, you will continue to incur a \$.75 per transaction service charge when using any KETS ATM or \$1.00 for all ATMs owned by other financial institutions.

Annual Meeting

Scheduled For March 1995

BWECU's 1995 Annual Meeting is to be held Wednesday, March 15, 1995 at 5:30 p.m. at the Credit Union main office on Oliver. Our Annual Meeting is held primarily to inform members about the financial progress we made in 1994.

Results of the mail ballot election for the Credit Union's Board of Directors will also be announced at the meeting. →

form Jerel Wright, Administrator

reply

date _____



Kansas Department of Credit Unions

400 Kansas Avenue, Suite B
Topeka, KS 66603
(785) 296-3021

subject Bylaw Amendment

date November 18, 1999

to Mr. Gary Regoli, CEO
Boeing Wichita Credit Union
2900 S. Oliver
Wichita, KS 67210-1595

message

Enclosed is an approved copy of your bylaw amendment that adds a geographic area to your field of membership.

Please keep this amendment attached to your current bylaws for future reference.

Thank you

cc: KCUA

signed _____

to reply, keep yellow copy and return white copy

ATTACHED T-4

Testimony on Behalf of Central Star Credit Union

Before the
Kansas House of Representatives
Committee on Insurance and Financial Institutions

In support of House Bill 2676

January 30, 2008

Good afternoon,

I am Lee Williams, president of Central Star Credit Union in Wichita. We are a state chartered credit union. I stand before you today asking for your support of House Bill 2676.

House Bill 2676 clarifies language on the issue of membership and geographic boundaries for credit unions. The foundation of this bill is based on over 60 years of actual experience. The changes that are being asked for have been a well documented practice in this state for those 60 years. So in asking for your support, credit unions come with a stellar track record, using these guidelines.

Over the past 60 years credit unions have caused no harm to Kansas citizens, **No harm to other businesses and or the state of Kansas.** As a matter of fact, members love their credit union, as evident by the petitions we brought today and that in a nationwide survey for over a decade credit union beat all other financial service providers in customer service.

Fact # 2 No harm to other businesses or the state of Kansas, credit union market share has stayed consistent over the past 10 years. Even with the rapid growth of payday lending stores in the last couple of years, from only a few to over 440 today, banks still control over 95% of the market in the state.

No harm to the state: From a safety and soundness perspective: Credit unions in the state are well capitalized, highly regulated, service focused entities that have required no intervention or assistance. The State Dept. of Credit Unions has done its job well.

This bill is important to Central Star Credit Union's ability to be a viability option for Kansas consumers in some of the most challenging times for making financial decisions and choices that will impact their families for years to come. Limiting credit union access would be a step backward.

In 2000 we were a single sponsored credit union; we served Beechcraft/Raytheon employees and their families only. The aviation industry took a tumble, our member's needs for financial assistance and services increased. We had all our eggs in one basket and a tough decision to make. This is not 1929, or 1959, a group of 400 or 500

House Insurance
Date: 1-30-08
Attachment # 10

cannot provide the critical mass necessary to offer the menu of financial services Kansas consumers need or the delivery channels they expect.

Our volunteer board made the decision to survive: Survival meant diversification. We applied to the State Dept of Credit Unions to expand our field of membership to include 5 surrounding counties. Since that change in 2001 we have added over 1200 new members with 89% being outside Raytheon. Since 2006 we have loaned more than 3 million to over 450 non Raytheon employees with credit scores of 600 or below. If these changes had not been made, Central Star may not have been an option for our members today.

Too many these numbers are small potatoes ...but to our member, Jere Woodard, who informed me last week that we are now providing services for the 4th generation of her family. It's a big deal.

To the individual with the credit score under 600 that was told "yes" to an auto loan, It's a big deal.

I would ask you to go back in time with me to 1929-1939. Banks and predatory lenders were your only choice, markets were in turmoil and foreclosures were at an all time high...sound familiar? And from that difficult time, came a solution for the consumers ...credit unions. The average consumer saves over \$200.00 annually because credit unions are available in the marketplace.

Since, 1929, in Kansas, credit unions have paid their way, have not caused undue risk, have caused no harm to consumers or other financial institutions and are not a part of the sub-prime or payday lending problem.

Edward Filene: the founding father of the U.S. Credit Union movement said it best:

"Progress is the constant replacing of the best there is with something better still."

From 1929 to today Kansas Credit Unions have been a shining example of doing just that. We ask today that you not limit consumer's choice by limiting their access to credit unions.

You have hard issues to face this session, with healthcare, education, or the softening economy, this should not be one.

In what promises to be some challenging times for consumers, don't limit or take away their right to chose where and how they receive their financial services. Please vote for the consumer, vote for choice, vote for a proven process, and vote yes for House Bill 2676.

Thank you



Kansas Cooperative Council

816 S.W. Tyler St., Suite 300
Topeka, Kansas 66612

Phone: 785-233-4085

Fax: 785-233-1038

Toll Free: 888-603-COOP (2667)

Email: council@kansasco-op.coop

www.kansasco-op.coop

House Committee on Insurance and Financial Institutions

January 30, 2008
Topeka, Kansas

HB 2676 - Updating credit union membership statutes consistent with historical practice.

Chairman Schultz and members of the House Insurance and Financial Institutions Committee, thank you for the opportunity to share our support for HB 2676. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Executive Director.

The Kansas Cooperative Council represents all forms of cooperative businesses across the state -- agricultural, utility, credit, financial and consumer cooperatives. Cooperative enterprises operate in every county across Kansas. Credit unions, as cooperatively structured financial entities, comprise an important segment of the Council's membership.

As cooperatives, credit unions are member-owned and member-controlled. Like other co-ops, they operate for the mutual benefit of the member-owners. Historically, cooperatives have often been formed to meet a need for service that either is not adequately available or not available at a competitive price/rate.

As you know, HB 2676 will adjust statutory language to align with decades of regulatory practice. Although the cooperative community has disagreed that allowing the combination of common bonds was outside the intent of the existing statute, HB 2676 will settle the debate.

Regulatory interpretations allowing combinations of common bonds, both under the bank commissioner's office and the Kansas Department of Credit Unions, have allowed credit unions to grow and adapt to changing financial/economic environments. It has also allowed credit unions to adapt to meet the financial needs of their member-owners.

The KCC supports the ability for cooperatively owned financial organizations, which are regulated, to grow and modify as their member-owners needs change. Six decades of regulatory practice have allowed such changes. Now is not the time to make a radical departure from longstanding practice. We respectfully encourage this committee to uphold this precedent through the approval of HB 2676.

Thank you.

Leslie Kaufman, Executive Director
Kansas Cooperative Council
785-220-4068

The Mission of the Kansas Cooperative Council is to promote, support and advance the interests and understanding of agricultural, utility, credit and consumer cooperatives and their members through legislation and regulatory efforts, education and public relations.

House Insurance
Date: 1-30-08
Attachment # 11