

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 6, 2008 in Room 136-N of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Doug Wareham, KBA  
Matt Goddard, Heartland Community Bankers'  
John Federico, Kansas Credit Union Assn.  
Jerel Wright, Kansas Credit Union Assn.  
Larry Damm, Cessna Employees Credit Union  
Lee Williams, Central Star Credit Union  
Gary Regoli, Boeing Wichita Credit Union  
Leslie Kaufman, Kansas Cooperative Council (written only)

Others attending:

See attached list.

The Chair called the meeting to order.

Hearing on:

**SB 535 - an act concerning credit unions; pertaining to field of membership; pertaining to mergers; pertaining to branches**

The Chair announced that the proponents would be given 20 minutes and the opponents 20 minutes. She said the rest of the time would be used for questions. She said if neither side uses their 20 minutes, the time will go to the question and answer period. The Chair opened the hearing on SB 535 and recognized Senator Wilson for his work as Chair of the subcommittee.

Senator Wilson presented committee members with bullet points of his presentation on March 5, as he promised.

Doug Wareham, Kansas Bankers' Association, testified in support of SB 535, stating that SB 535 was introduced in response to the 2006 Legislative Post Audit Report regarding the Kansas Department of Credit Unions and has three primary objectives:

1. Establishes credible and proven common bond/field of membership standards for state-chartered credit unions in Kansas.
2. Implements much needed transparency requirements for credit unions that modify their fields of membership or branch into a new community.
3. Grandfathers (protects) all existing members of state-chartered credit unions and existing branches to ensure Kansans currently being served by credit unions are not negatively impacted by field of membership requirements proposed in this bill.

Mr. Wareham said that in light of the Department's unwillingness to modify their interpretation and actions after reviewing the findings of Legislative Post Audit, KBA believes more prescriptive requirements regarding credit union fields of membership must be adopted by the Kansas Legislature. Failing to take action on this measure would be neglecting the fact that a state law is not being adhered to, Mr. Wareham said. He

## CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on March 6, 2008 in Room 136-N of the Capitol.

said additionally, establishing state standards that will foster greater transparency and accountability of the Department's internal approval processes for branching and field of membership modifications also need to be adopted.

Mr. Wareham continued that the field of membership and transparency standards included in the subcommittee report on SB 535 will remove any ambiguity that currently exists between Kansas Law and the Kansas Department of Credit Unions' interpretation of the law. This proposal will address the concerns raised by Legislative Post Audit. He said this bill will establish much needed credibility and accountability for the Kansas Department of Credit Unions and the state-chartered credit unions they regulate. Mr. Wareham said this is an extremely important issue and that KBA stands ready to work with the committee and other stakeholders to identify an equitable outcome on this matter. (Attachment 1)

Matt Goddard, Heartland Community Bankers' Association, testified in support of SB 535. Mr. Goddard stated that the subcommittee report represents a fair compromise on the credit union field of membership issue. He said most importantly, by grandfathering current credit union members, it will not interfere with established relationships between credit unions and their customers. He continued that field of membership is on the public agenda because in 2006 the Legislative Division of Post Audit determined that the Credit Union Department's interpretation of field of membership requirements doesn't appear to conform to State law. HCBA believes that the common bond is the primary justification for the unique benefits of the credit union charter and as such, it is important that the common bond be enforced, he said. Mr. Goddard noted that if credit unions want to be freed from what they apparently consider to be the oppressive yoke of the common bond and field of membership standards, then they should also be willing to give up the benefits that come with "limiting" their membership to groups having a true common bond. (Attachment 2)

John J. Federico testified in opposition to SB 535, on behalf of the Kansas Credit Union Association (KCUA). Mr. Federico stated he would focus on a couple of key issues for the committee to consider as they deliberate on the bill:

1. The rationale offered as the basis for the legislation is based on conjecture and opinion, not a legal determination.
2. SB 535 is punitive.
3. Passage of the bill would offer the appearance of preferential treatment in favor of traditional banks, to the detriment of member-owned financial cooperatives.
4. The bill is anti-consumer. (Attachment 3)

Jerel Wright, on behalf of the Kansas Credit Union Association, also testified in opposition to SB 535. Mr. Wright said credit unions oppose SB 535 because the bill appears to rob Kansas consumers and Kansas credit unions of their decision over who can become a credit union member. He said this bill takes away the right to choose by giving the Kansas banking industry the power to create credit union law. He said Kansas consumers and Kansas credit unions deserve the right to make their own financial choices rather than surrendering them to the banking industry. Mr. Wright said the bill will effectively eliminate the state charter in Kansas. (Attachment 4)

Larry Damm, on behalf of the Cessna Employees Credit Union, stated that the Kansas Bankers Association started this process with the Legislative Post Audit Committee three and a half years ago. He said it is not the consumers who brought the credit unions and the taxpaying banking industry here. He said credit unions are not just like the tax-paying financial institutions. There are basic structural differences. They are:

- There is a difference between for-profit companies and not-for-profit companies.
- There is a basic difference in federal tax code between corporations under Chapter C and sub S sections. We are a 501c14 company under the federal tax structure which is very different. It puts us in not-for-profit status.

## CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on March 6, 2008 in Room 136-N of the Capitol.

- Banks are stockholder owned. They take risks, they invest, they are there to make money for the owners of the bank. That is not bad, that is good. I have had stock in banks. But credit unions are cooperatively owned by their members. Every single member is an owner in the business, he said.

- Banks and corporations pay their Board of Directors for their services. That is not bad. They have a stake in the business, so do our members. But our Board of Directors are volunteers. By law we cannot pay them. They represent their members on a cooperative basis to guide the credit union.

- Banks' profits are returned to their stockholders. That is not bad. They have risks, they have invested, they are managing their risks, and that is where their money goes. Credit unions are not-for-profit. Our money goes to the members. We do this in rates, services, in fees. We try to balance our efforts to our owners. We return the benefit of that cooperative to our owners.

- Credit unions do pay taxes. We don't pay federal income tax, we don't pay the state privilege tax, but we do pay payroll taxes, sales taxes, and property taxes. Our sole purpose is to serve our members.

Mr. Damm said the banking community has mis-characterized credit unions as lawbreakers and violating the public trust. He said that just isn't true. He said the timing of this bill couldn't be worse. We are in a national economic slow down. The nation's economy is cooling off. We have a sub-prime mortgage crisis that will affect Kansas. Mr. Damm said when he was in Washington, congressional leaders challenged the 5,000 credit union representatives. They said credit unions are not a part of the problem but we expect credit unions to be part of the solution to the problem. Credit unions are willing to be a part of the solution, but it is very difficult while we are standing here in the legislative halls of Kansas defending ourselves against a bill that restricts services and limits consumer choice. He said this bill is bad public policy. ([Attachment 5](#))

Lee Williams testified on behalf of Central Star Credit Union. She stated credit union statute was written in 1929. It was short, sweet and simple, leaving room for the document to evolve, she said. She noted, so that the not-for-profit, volunteer led, democratically run financial cooperative known as a "credit union" would have a foundation on which to build. She said that has taken place during the last 60 years. She said the credit union regulator and the credit unions have made decisions that have enhanced the financial lives of member owners. She said there are almost 600 thousand Kansans who choose a credit union today. She noted credit union success has helped consumers, without hurting other businesses or requiring state assistance. ([Attachment 6](#))

Gary Regoli, Boeing Wichita Credit Union, stated if this law were enacted, credit unions would have no choice but to shrink from their field of membership. Mr. Regoli asked if the committee has been shown that at least one credit union's services would be available to all Kansans? Is it appropriate for a credit union bill be written by a KBA attorney? He asked if they really believe that change is in the best interest of their constituents? Mr. Regoli asked if the United States credit industry will consider Kansas as being progressive in its treatment of its own credit unions or will you decide to place Kansas on a short list of states that are considered unfriendly to their own credit unions such as our neighbors to the east in Missouri? He noted, this is a chance to be progressive or cave in to special interests. ([Attachment 7](#))

The meeting adjourned at 10:30 a.m.

**SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE  
GUEST LIST**

DATE: 3-6-08

NAME	REPRESENTING
Judi Stork	OSBC
Joan Davis	Ks Super Chief Cr. Union
Richard Anderson	Educational Credit Union
TONY VARGAS	Ks. SUPER CHIEF CREDIT UNION
Mary Matthews	Golden Plains Cr. Union
Clarena Matthews	Golden Plains Cr. Union
KRISTIN TRIPP	CREDIT UNION OF JO. CO.
DAN Moberly	"
Ken Armstrong	CUJC
David Graf	CUJC
Lisa Mallow	CUJC
John D. Sherwood	Mid American Credit Union
CARL L. BOSITER	MID AMERICAN CREDIT UNION
Kristen Spear	mid American Credit Union
Susan E. Steen	Mid American Credit Union
David Hefert	Mid American Credit Uni
Cindy Scott	KSCEU
Jan Scott	KSCEU
Camille Nohr	Attorney General Office

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**SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE  
GUEST LIST**

**DATE:** \_\_\_\_\_

NAME	REPRESENTING
Bruce Taylor	Credit Union of Johnson County
DOUGLAS BANKSON	CREDIT UNION OF JOHNSON COUNTY
Chris Watkins	Credit Union of Johnson County
Sandra Lee	Credit Union of Johnson County
Jeff Mitchen	Credit Union of Johnson County
Peggy Clayton	Credit Union of Jo. Co.
JULIE BRUMMETT	KSUFCE
Kristen Krainbill	KSU FCU
Faith Boltz	KSU FCU.
Alan Boosdahl	KSU Federal Credit Union
Robin Fulks	Credit Union of Johnson County
Scott Lee	Credit Union of Johnson County
Patricia Foster	Credit Union of Johnson County
STAN MURPHY	CREDIT UNION OF KANSAS
Jenny Smith	Credit Union of Johnson Co.
DAVID COLLINS	CREDIT UNION OF JOHNSON COUNTY
Denise Hendricks	Credit Union of Johnson County
Joe Deneke	Farmway Credit Union - Beloit, KS
Max Roberts	Farmway C.U. Beloit, KS

**SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE  
GUEST LIST**

**DATE:** \_\_\_\_\_

NAME	REPRESENTING
Dimitri Ellis	KSECUC
Angelafobus	KS Super Chief Credit Union
Jonee A. Schenk	Farmway Credit Union - Beloit
Ken Tolbert	Farmway Credit Union - Beloit
<del>John O'Hara</del>	Sunflower U.P. Fed Cr Union - Papp
Sam Nelson	KFSU Federal Credit Union
Janet Fritsch	Sunflower U.P. FCU
Dawn Schuck	KSB Federal Credit Union
Luby Hillman	KS Teachers Community C.U.
Mark Kolanik	KABAS Teachers Community C.U.
Mike Lackey	CU of KS
Lori Townsend	CU of KS
Liz	CU of KS
Helio Kaufman	KS Co-op Council
Ron Reville	KS BCBS Credit Union
Jessira Stormann	Kansas Super Chief Credit Union
Greg Raney	Cr Un of Johnson Co
Liffie Swanson	Sen. D. Schmidt
Doug Chastom	Central Star Credit Union

**SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE  
GUEST LIST**

**DATE:** 3-6-08

NAME	REPRESENTING
Karla Parsons	member of KSU Fed Cr. Union
Len Harbers	Member of KSU Fed Credit Union
Jack Chalender	Credit Union of Johnson County
GARY REGOLI	MEMBERS OF BWCU
Kathy Saunders	Cr. Un. of JO. Co.
Sandy Curtis	Cr. Un. of JO. Co.
Melody Richard	CU of Kansas
Vickie Hunt	CU of Kansas
Lori Townsend	CU of Kansas
Julie Allen Murray	CU of Kansas
Stacy Slagle	member - KSU Fed. Credit Union
LEONARD YADON	Ks. Dept of Credit Unions
W <sup>M</sup> Dale M <sup>E</sup> Lusley	KDCU & AREA CU
EVAN BOYNOUS	Capital CUSO employee
Kent Needham	First Security Bank - Overbrook
Doug Wareham	Kansas Bankers Assn.
Chuck Stens	KBA
Matthew Goddard	Heartland Community Bankers Assoc.
Sonye Allen	OSBC

**SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE  
GUEST LIST**

**DATE:** \_\_\_\_\_

NAME	REPRESENTING
Sue Schmeizer	Central Star Credit Union
Cathy Swink	Central Star Credit Union
Kathy Olsen	Kansas Bankers Assn
Tom McGowan	St Bank of Delphos
Kent Needham	Kansas Bankers Assn





**Date:** March 6, 2008  
**To:** Senate Financial Institutions & Insurance Committee  
**From:** Doug Wareham, Senior Vice President-Government Relations  
**Re:** Support for S.B. 535

Chairman Teichman and members of the Senate Financial Institutions & Insurance Committee, I am Doug Wareham appearing on behalf of the Kansas Bankers Association (KBA). KBA's membership includes 347 Kansas banks, which operate more than 1,300 banking facilities in 440 towns and cities across the state. Thank you for the opportunity to provide comments in support of the subcommittee report on Senate Bill 535.

I would like to begin by sharing our appreciation for the significant amount of time invested by the subcommittee comprised of Senator Barone, Senator Brownlee and Senator Wilson. As a reminder, Senate Bill 535 was introduced by our organization with support from the Community Bankers Association of Kansas and Heartland Community Bankers Association. This bill was introduced in response to the 2006 Legislative Post Audit Report regarding the Kansas Department of Credit Unions and has three primary objectives:

1. Establishes credible and proven common bond/field of membership standards for state-chartered credit unions in Kansas.
2. Implements much needed transparency requirements for credit unions that modify their fields of membership or branch into a new community.
3. Grandfathers (protects) all existing members of state-chartered credit unions and existing branches to ensure Kansans currently being served by credit unions are not negatively impacted by the field of membership requirements proposed in this bill.

I would like to reference some historical information that I believe this committee should consider as you continue deliberating Senate Bill 535. I hope this committee will take time to review the information and reports we have provided relating to the following:

- Credit Unions Privileged Tax Status
- Credit Unions – Serving People of Modest Means – Not according to recent GAO Reports
- Credit Union w/ State-Wide Fields of Membership

**Credit Union Privileged Tax Status:** It would be a mistake to review Kansas law regarding credit union field of membership requirements without understanding the relationship between credit union fields of membership and the tax-exempt status that credit unions enjoy. Credit unions, unlike their bank and savings and loan competitors, are exempt from federal income tax and the Kansas privilege tax. The relevance of the historic relationship between a credit union's field of membership and a

credit union's tax-exempt status has been recognized by Congress, by the Kansas Legislature and, as you heard referenced yesterday, by our legal system.

I believe it is important to note that last year (2007) the State of Missouri addressed the very question we are grappling with today. The Missouri State Legislature revised their state's credit union field of membership law after a Cole County (Missouri) District Court found that the Missouri Department of Credit Unions had allowed the expansion of credit union fields of membership beyond what was authorized by Missouri state law. At this time, I would like to highlight the text from a Cole County District Court Ruling that I believe should be considered by this committee. In its ruling, the District Court judge stated the following:

*Credit Unions sprang from the Great Depression. Credit unions are member-owned and not-for-profit and owing to their genesis they have traditionally provided financial services to people of modest means. Thus, Congress granted them tax exemption. The state (Missouri) provides such an exemption as well. However, in order to prevent credit unions from unfairly competing with banks, who do pay state and federal taxes, both Congress and the Missouri legislature have restricted credit unions to include only those persons who reside or work in a well-defined local neighborhood, community, or rural district or share a common occupation, association, or employer. (A complete copy of the Cole County District Court ruling is attached).*

I felt I needed to reference this portion of the Judge's ruling to provide some historical background as to our interest in credit union expansion. Also included in my testimony (**see green attachment**) is a one page document that will allow you to compare the Federal Law, which was found to have been violated, Missouri's Credit Union Field of Membership Code, which was found to have been violated and Kansas' current law pertaining to field of membership restrictions. Just as the U.S. Supreme Court decreed at the federal level and the Cole County District Court judge decreed in Missouri on very similar language, we believe Kansas law (K.S.A. 17-2205) was designed to limit Kansas credit unions to credible occupation/association groups or groups comprising a well-defined by a neighborhood, community or rural district.

**Serving People of Modest Means:** A fundamental change has occurred within the credit union industry that has separated the industry into two distinct groups – diversified conglomerate credit unions that have implemented aggressive growth strategies and traditional credit unions that continue to embody Congress' original charge of serving "people of modest means" and holding true to common bond requirements. **During the interim legislative hearings on this topic, the Kansas Department of Credit Unions stated they have no statutory or regulatory role in ensuring credit unions focus their efforts on low income Kansans.** Why is this relevant to today's discussion?

In 2003, a United States Government Accountability Office (GAO) Report (**see blue attachment**) indicated the percentage of middle/upper income customers was actually higher for credit unions (64%) than banks (58%). The same report showed that while only 16% of credit union customers fell into the "low income" category, the percentage of low income customers for banks stood at 26%. These GAO statistics are further substantiated by a report published in 2005 by the National Community Reinvestment Coalition (NCRC), which criticized the credit union industry for serving fewer households of modest means than other financial institutions. The NCRC report was equally critical of large bank-like credit unions and stated that **they were benefiting politically from the**

**efforts of those staying true to the traditional credit union philosophy while avoiding the responsibility to do so.**

Allowing credit unions to lose focus on their original affinity groups, and in Kansas allowing statewide fields of membership, would seem to further remove credit unions from their original charge – serving people of modest means. It also brings into question the justification for the tax-exempt status enjoyed by large credit unions that are competing with both locally-based traditional credit unions and tax-paying community banks. I looked up the five state-wide credit unions cited in the post audit report, along with Community American Credit Union, to create a better picture of the size of organizations we are talking about.

<u>Credit Unions w/ Statewide Fields of Membership</u>	<u>Total Assets</u>
Community America (Kansas City, Mo.)	\$1,707,249,311
Golden Plains Credit Union (Garden City)	\$212,007,330
Kansas Super Chief Credit Union (Topeka)	\$141,957,218
Mid-American Credit Union (Wichita)	\$121,473,616
Hutchinson Credit Union (Hutchinson)	\$105,709,000
Credit Union 1 of Kansas (Topeka)	\$74,274,365

The statistics I'm sharing were pulled from the National Credit Union Administration's website and I share them to compare the size of these organizations with the median asset size of Kansas credit unions, which is only \$7,657,000. Clearly these large, statewide organizations are a breed apart from traditional credit unions and are in fact larger than 59% of the banks currently operating in Kansas.

For the record, Kansas bankers are not opposed to paying income taxes, although eliminating them would create the level playing field we are seeking. We understand the important role state and federal income taxes play in supporting our state and nations infrastructure. We cannot, however, sit idly by when tax-exempt competitors and their regulator first ignore Kansas law (K.S.A. 17-2205) designed at least in part to protect tax-paying financial institutions and now, when faced with a State Legislative Post Audit Report that sheds light upon the credit union industry's non-compliance, they simply ask the Kansas Legislature to codify their actions.

### **Real World Effects of the Credit Unions Privileged Tax Status**

#### Example #1:

A Topeka-based community bank with \$53 million in assets recently lost a client/business loan to a competing credit union. The roughly \$500,000 business loan package included a \$200,000 operating line of credit and a \$300,000+ construction loan that would transition into a long-term business mortgage. The income tax-paying bank in this case lost the client/loan simply because they couldn't compete with the interest rates being offered by the income tax-exempt credit union. The bank offered a rate of Prime plus ¼ percent.

*"It is extremely difficult to compete with a competitor that enjoys a 35% or greater income taxing advantage. We were very concerned by the loss of this loan, which would have had a significant impact on our community bank with \$45 million in total loans."*

- Gary Yager, President, VisionBank, Topeka, Kansas

Example #2:

A Garden City-based community bank with \$57 million in assets has lost eight commercial/business loans in the last 12 to 14 months to a competing state-chartered credit union with assets of \$209 million. These business loans totaled more than \$3,750,000.

*“The income tax advantage enjoyed by our competing credit union has made it impossible to compete on numerous business loans in our community. Business loan rates being offered by our credit union competitors have been as much as a full percentage point under Prime. We are trying to compete, but the income tax-advantage they have is often too significant to overcome for a tax-paying bank, such as ours.”*

- Frank Reifschneider, President, Garden City State Bank

In conclusion, I would simply state that in light of the Department’s unwillingness to modify their interpretation and actions after reviewing the findings of Legislative Post Audit, we believe more prescriptive requirements regarding credit union fields of membership must to be adopted by the Kansas Legislature. **Failing to take action on this measure would be neglecting the fact that a state law is not being adhered to.** Additionally, establishing state standards that will foster greater transparency and accountability of the Department’s internal approval processes for branching and field of membership modifications also need to be adopted.

We believe the field of membership and transparency standards included in the subcommittee report on Senate Bill 535 will remove any ambiguity that currently exists between Kansas Law and the Kansas Department of Credit Unions’ interpretation of the law. This proposal will address the concerns raised by Legislative Post Audit. Simply put, we believe this bill will establish much needed credibility and accountability for the Kansas Department of Credit Unions and the state-chartered credit unions they regulate.

I want to thank this committee for the time and effort you are devoting on this topic. This is an extremely important issue and we stand ready to work with this committee and other stakeholders to identify an equitable outcome on this matter. I am happy to respond to any questions you might have.



Matthew S. Goddard, Vice President

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Topeka, Kansas 66603  
Office (785) 232-8215 • Fax (785) 232-9320  
mgoddard@hcbankers.com

To: Senate Financial Institutions and Insurance Committee

From: Matthew Goddard  
Heartland Community Bankers Association

Date: March 6, 2008

Re: Senate Bill 535

The Heartland Community Bankers Association appreciates the opportunity to appear before the Senate Financial Institutions and Insurance Committee to express our support for the subcommittee report on Senate Bill 535. The subcommittee report represents a fair compromise on the credit union field of membership issue. Most importantly, by grandfathering current credit union members, it will not interfere with established relationships between credit unions and their customers.

Field of membership is on the public policy agenda because in 2006 the Legislative Division of Post Audit determined that the Credit Union Department's interpretation of field of membership requirements "doesn't appear to conform to State Law." HCBA believes that the common bond is the primary justification for the unique benefits of the credit union charter and as such it is important that the common bond be enforced.

Senate Bill 535, both in its original form and as incorporated in the subcommittee report, offers a common bond requirement very similar to the standard that is applied to federal credit unions. The subcommittee report prohibits the mixing of occupation and association common bonds with geographic or community common bonds but puts no other restrictions on association or occupation credit unions. It allows a geographic field of membership to include multiple contiguous political jurisdictions so as long as the combined population of those jurisdictions doesn't exceed 500,000. As an alternative, a credit union could serve a Metropolitan Statistical Area so long as its population does not exceed 1,000,000. The subcommittee report also increases the public's knowledge of credit union applications by requiring greater public notification of branch openings and field of membership changes.

Reinstituting a meaningful common bond is important not only to income and privilege tax taxpaying financial institutions that compete with credit unions but also the people of Kansas. The credit union industry would have you believe that the common bond exists in a vacuum and has no correlation with either a credit union's tax-exempt status or its lack of Community Reinvestment Act (CRA) obligations. HCBA disagrees with this and believes the common bond has been the traditional justification for exempting credit unions from income taxes and CRA. The common bond requirement should not be allowed to fade away due to regulatory indifference unless credit unions give up the benefits that come with it. Since they seem unwilling to do that, HCBA believes Senate Bill 535 is necessary to preserve the common bond for Kansas-chartered credit unions.

Credit unions are not the only companies that do not issue capital stock and that are owned by depositors or customers instead of stockholders. Eight depositor-owned, mutual savings associations operate today in Kansas. Unlike credit unions and despite their ownership structure, however, they still pay income taxes. In

adherence to mutual savings and loans that pay the privilege tax, mutual insurance companies like Blue Cross of Kansas and Blue Shield of Kansas and State Farm pay a premiums tax. This would appear to indicate that the common bond has more to do with a credit union's tax exemption than its lack of capital stock and stockholders.

Sixty years ago, mutual savings and loans were exempt from taxation just like credit unions are today. In a 2001 report mandated by Congress, "Comparing Credit Unions With Other Depository Institutions," the Treasury Department explained why mutual savings associations lost their tax exempt status:

*"In 1951, however, Congress removed the thrift tax exemption because these institutions had evolved into commercial bank competitors, and had lost their "mutuality," in the sense that the institutions' borrowers and depositors were not necessarily the same individuals. Congress determined that, under these circumstances, their tax exemption afforded them an unfair advantage over commercial banks."*

The major regulatory benefit that credit unions receive due to their supposed adherence to the common bond is that they are not required to comply with the Community Reinvestment Account. When Congress enacted CRA for banks and savings and loans in 1977 there was little justification for including credit unions because their borrowers and depositors were the same people. When credit unions adhered to a strict common bond requirement such as a single employer or a concentrated and well-defined neighborhood, it was a forgone conclusion that the credit union did a good job of meeting the needs of its customers. After all, a factory employees' credit union could only lend to workers at the factory and a neighborhood credit union could only take deposits from members of the neighborhood where it was making its loans.

As credit unions have expanded their field of membership to include the entire state of Kansas in some instances, there is no regulatory oversight along the lines of CRA to ensure that credit unions are serving their entire market areas. For example, if a credit union's field of membership is anyone who lives, works or goes to school in the state, the Department of Credit Unions isn't making sure the credit union is actually serving people of all income levels in all four corners of the state. This was not an issue when credit unions followed a narrow concept of the common bond but it should be now that the common bond is more of a loose thread than a close knit group.

If credit unions want to be freed from what they apparently consider to be the oppressive yoke of the common bond and field of membership standards, then they should also be willing to give up the benefits that come with "limiting" their membership to groups having a true common bond. Credit unions that believe that the common bond requirements in the subcommittee report on Senate Bill 535 are too constricting have the option of converting to a mutual savings and loan or savings bank. As a savings association, they would no longer have a field of membership requirement. As a mutual institution, they would still be owned by their depositors and borrowers, just as they are now, but would be free to operate and branch freely anywhere in Kansas. Among HCBA's own membership, we have two former credit unions, one in Texas and one in Minnesota.

In 1951, the savings and loan industry chose the opportunity for future growth at the expense of taxation. Today, bank-like credit unions refuse to make that same choice. The subcommittee report on Senate Bill 535 is therefore necessary to preserve the common bond.

Thank you for your kind consideration of HCBA's support of the subcommittee report on Senate Bill 535.



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## Testimony In Opposition To SB535

John J. Federico, JD

Offered on Behalf of the Kansas Credit Union Association (KCUA)

Senate Financial Institutions & Insurance Committee

March 6, 2008

Chairperson Teichman,

Thank you for the opportunity to appear before your committee in strong opposition to SB 535. I appear on behalf of the Kansas Credit Union Association and respectfully urge you to not advance this legislation.

My testimony focuses on a couple of key principles which I hope you take into consideration as you deliberate on the bill.

- 1) The rationale offered as the basis for the legislation is based on conjecture and opinion, not a legal determination.
- 2) SB535 is punitive.
- 3) Passage of the bill would offer the appearance of preferential treatment in favor of traditional banks, to the detriment of member-owned financial cooperatives.
- 4) The bill is anti-consumer.

I encourage you to review the attachments I have provided as part of my testimony.

Thank you for your time and consideration.

*FI&I Committee  
March 6, 2008  
Attachment 3*

**Reports of the  
Special Committee on Financial  
Institutions and Insurance  
to the  
2008 Kansas Legislature**

**CHAIRPERSON:** Senator Ruth Teichman

**VICE-CHAIRPERSON:** Representative Clark Shultz

**RANKING MINORITY MEMBER:** Senator Chris Steineger

**OTHER MEMBERS:** Senator Roger Pine; and Representatives Nile Dillmore, Rocky Fund, Peggy Mast, Ronnie Metsker, and Cindy Neighbor

**STUDY TOPICS**

- Regulation of Credit Unions
  - Health Care Tax Credits and Benefits
  - Mine Subsidence Insurance
- 
- The Department's interpretation of credit unions' membership requirement doesn't appear to conform to state law. The Department has interpreted the law very broadly to allow:

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*January 2008*



**BLACKWELL SANDERS PEPPER MARTIN**  
LLP

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P.O. Box 219777 Kansas City, MO 64121-6777  
Tel (816) 983-8000 Fax (816) 983-8080  
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November 10, 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* (the "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.

This may well be the result of the Committee relying solely on itself for its legal interpretations and not seeking the opinion of the Department's legal counsel. Of course, we should acknowledge that the Committee can draw its own conclusions with regard to what it views as sound policy. We would respectfully suggest, however, that such conclusions should not be premised upon faulty legal analysis regarding the state of the law in this area.

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.

**BLACKWELL SANDERS PEPPER MARTIN**  
LLP

Ms. Marla S. Marsh  
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**FEDERAL LAW INFORMS, BUT DOES NOT CONTROL KANSAS LAW**

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 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. Reimer & Koger Associates, Inc.*, 262 Kan. 635, 669 941 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. *See 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.*” *Reimer*, 262 Kan. at 670, 941 P.2d at 1343 (emphasis added) (citing *Quality Oil Co. v. DuPont & Co.*, 182 Kan. 488, 493, 322 P.2d 731 (1958)); *see also State ex rel. Stephan v. Finney*, 254 Kan. 632, 633, 867 P.2d 1034, 1036 (Kan. 1994). 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 (1st Cir. 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 an “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 assiduously left out of the Committee’s quotation of the state statute.

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LLP

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*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.

**THE DEPARTMENT’S INTERPRETATION PROTECTS CONSUMERS**

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 permitted to consider only a certain isolated part . . . of an act.” *Reimer*, 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.

**BLACKWELL SANDERS PEPER MARTIN**  
LLP

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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. Moreover, the statute was originally adopted in 1929 and there is no available legislative history to tell us what was intended.

**THE COMMITTEE'S FAULTY LEGAL ANALYSIS DOES NOT IMPEACH THE DEPARTMENT'S  
LONG-STANDING, CONSUMER ORIENTED, REASONABLE INTERPRETATION**

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 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.

Very Truly Yours,

*Blackwell Sanders Peper Martin, LLP*

## HISTORY OF BANK COMMISSIONERS

Date of Service	Name	Field of Membership Approvals for Multiple Common Bonds
January 14, 1929 - May 1, 1929	Wm. S. Kennedy, Kensington Former Bank Examiner and First Asst Bank Commissioner	
May 1, 1929 - March 1, 1935	H. W. Koeneke Herkimer State Bank Exchange State Bank, Parsons	
March 1, 1935 - April 1, 1937	R. A. Haines Prairie State Bank, Augusta	
April 1, 1937 - April 1, 1941	Elwood Brooks Farmers National Bank, Oberlin	
April 1, 1941 - June 30, 1951	B. A. Welch State Bank of Kingman	XXXX
July 1, 1951 - January 5, 1955	Elmer T. Beck Farmers State Bank, Dwight	XXXX
January 6, 1955 - August 31, 1955	F. O. Oberg Union State Bank, Clay Center	
September 1, 1955 - January 31, 1956	Gordon W. Lindley, Topeka	
February 1, 1956 - May 29, 1958	Ralph B. Medlin Farmers State Bank, Oakley	XXXX
June 3, 1958 - June 30, 1963	John A. O'Leary, Sr. Peoples State Bank, Luray	XXXX
July 1, 1963 - June 30, 1967	J. O. Wilson Kansas State Bank, Wichita	XXXX
July 1, 1967 - December 31, 1968	John A. O'Leary, Sr. Peoples State Bank, Luray	

## HISTORY OF CREDIT UNION ADMINISTRATORS

Date of Service	Name	Field of Membership Approvals for Multiple Common Bonds
July 1, 1968 – September 9, 1975	Robert A. Arnold	XX
September 10, 1975 – August 17, 1979	Lovelle Frazier	XX
August 18, 1979 – January 17, 1986	John B. Rucker	XX
January 18, 1986 – March 17, 1986	Gary Atkins, Acting Administrator (CU Council Chair)	
March 18, 1986 – July 17, 1990	William A. Kasting	XX
July 9, 1990 – August 26, 1993	Wayne Warfel	XX
August 27, 1993 – October 31, 1993	Sue Shelby, Acting Administrator (CU Council Chair)	
November 1, 1993 – December 4, 1997	John P. Smith	XX
December 1, 1997 – September 23, 2005	Jerel Wright	XX
September 24, 2005 – February 1, 2006	Jack L. Hohman, Acting Administrator (KDCU Staff)	
February 2, 2006 – Present	John P. Smith	XX

# KANSAS CREDIT UNIONS

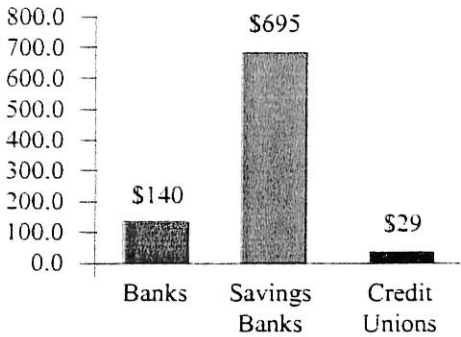
## KANSAS CREDIT UNION STATISTICS

	State Charter	Federal Charter	Total	Average/CU
Number of Members	504,205	54,410	558,615	4,944
Total Loans	2,057,760,779	230,285,088	2,288,045,867	20,248,194
Total Assets	2,942,147,153	365,234,352	3,307,381,865	29,268,866
Number of Cus	89	24	113	

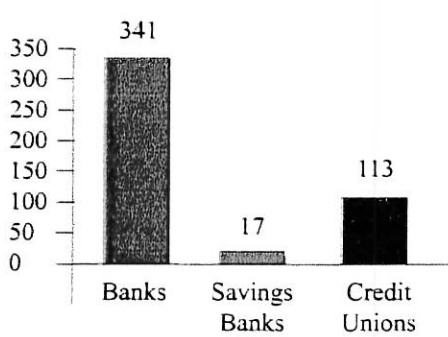
\*Credit Union Statistics from National Credit Union Administration for June 2007.

## KANSAS CREDIT UNION AND BANK COMPARISON

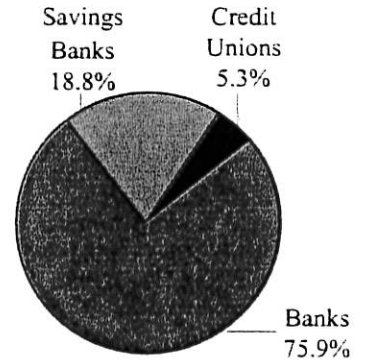
AVERAGE ASSET SIZE (\$ IN MILLIONS)



NUMBER OF INSTITUTIONS

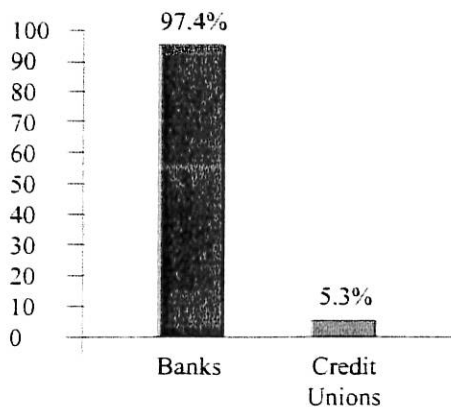


KANSAS MARKET SHARE (ASSETS)

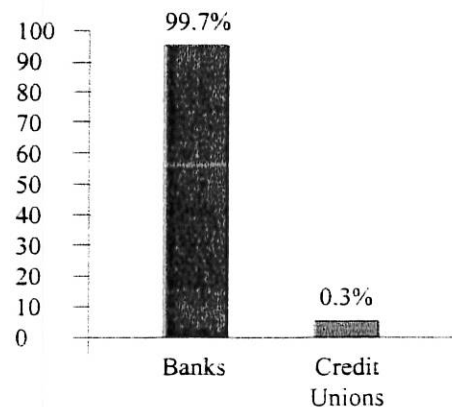


\*Credit Union Statistics and Bank Statistics from Credit Union National Association and FDIC for June 2007.

### MARKET SHARE - ASSETS\*



### MARKET SHARE - BUSINESS LOANS\*



\* FDIC, NCUA and Hancock, et. al.

3-9



# Kansas Credit Unions

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## *The Credit Union Difference*

It is important to truly understand how credit unions are unique and different, and why we remain a necessary and extremely popular financial alternative for more than 550,000 Kansans.

**Not-for-profit.** Credit unions are not-for-profit financial cooperatives. We exist to serve our members, not to make a profit. Unlike most other financial institutions, credit unions do not issue stock or pay dividends to outside stockholders. Instead, earnings are returned to our members in the form of lower loan rates, higher interest on deposits, and lower fees.

**Taxation.** Credit unions do pay taxes – payroll taxes, sales taxes, and property taxes. Credit unions are exempt from State corporate and Federal income taxes.

**Ownership.** Credit unions are economic democracy. Each credit union member has equal ownership and one vote – regardless of how much money a member has on deposit. At a credit union, every customer is both a member and an owner.

**Volunteer Boards.** Each credit union is governed by a board of directors, elected by and from the credit union's membership. Board members serve voluntarily.

**Membership Eligibility.** By current state statute, credit unions cannot serve the general public. People qualify for credit union membership through their employer, organizational affiliations like churches or social groups, or a community-chartered credit union.

**Financial Education for Members.** Credit unions assist members to become better-educated consumers of financial services. For example, Kansas credit unions partner with the Kansas State Treasurer's Office to bring MoneySmart Camp to middle school students across the state. MoneySmart is a day camp designed to encourage healthy money management among youth.

**Social Purpose.** People Helping People. Credit unions exist to help people, not make a profit. Our goal is to serve all of our members well, including those of modest means – every member counts. Our members are fiercely loyal for this reason. They know their credit union will be there for them in bad times, as well as good. The same people-first philosophy causes credit unions and our employees to get involved in community charitable activities and worthwhile causes – just ask us.



## CREDIT UNIONS ARE DIFFERENT FROM BANKS

### STRUCTURE

Credit unions are member-owned, not-for-profit financial cooperatives that offer services to their members.	Banks are for-profit, board and stockholder controlled, financial corporations that offer a wide variety of financial, investment, insurance and real estate services to their customers.
Credit unions operate under a one-member, one-vote system.	Bank stockholders hold influence based on the total value of their stocks. Bank customers do not own a financial interest in the bank.
Volunteer, unpaid boards operate credit unions.	Bank boards are generally compensated for their service.
The earnings of a credit union, minus operating expenses, are returned to the members in the form of higher deposit rates, lower loan rates and lower fees.	The profits of a bank, minus operating expenses, are divided among the stockholders of the bank.

### TAX TREATMENT OF INCOME

Credit unions do not pay federal income tax on the earnings of the credit union, but do pay all other relevant taxes such as payroll, property and sales taxes.	Banks do pay federal income taxes on corporate profits, although about one-quarter of all U.S. banks have adopted Subchapter S status. The foregone tax revenue arising from bank Subchapter S is now nearly equal to the value of the credit union tax exemption.
Credit unions, unlike many other participants in the financial services market, are exempt from Federal and most State taxes because they are member-owned, democratically controlled, not-for-profit organizations generally managed by volunteer boards of directors and because they have the specified mission of meeting the credit and savings needs of consumers, especially persons of modest means.	Banks do not have a tax exemption because they are a for-profit business intended to provide profits to their stockholders. Their customers own no financial interest in the bank. (The amounts banks pay stockholders dwarf their tax bills: Over the past five years, they've paid almost \$100 billion more to stockholders than in taxes.)



## KANSAS CREDIT UNION ASSOCIATION

# *Declaration of Statement*

It is with the best interests of our 500,000 Kansas credit union member/owners in mind that all Kansas credit unions make the following declaration to each member of the Financial Institutions & Insurance Interim Committee.

### WE ARE HOPEFUL...

- You remain committed to providing Kansas consumers the competition, confidence and convenience they seek when choosing a financial services provider.
- At a time when banks are allowed, unfettered by the legislature, to open branches anywhere they choose convenient for their customers and offer them an expanded variety of services including securities and insurance products, and at a time when the Legislature has chosen not to restrict the rapid expansion of Pay-Day Lenders, we respectfully ask that you not impede our ability to serve Kansas consumers by constricting who and where Kansas credit unions can serve.
- You respect the long history and precedence of the decisions that have been made by Kansas regulators, who, even when a single bank commissioner served as the regulator for both the banking and credit union industry, have as their highest priorities the maintenance of a competitive marketplace and the protection of consumers by guaranteeing the safety and soundness of each Kansas credit union.
- You are aware that the entire credit union industry is resolute in the belief that there has been no violation of the law, and that you take into consideration the entity that has claimed otherwise is not the Attorney General for the State of Kansas nor a judge or jury, but rather our competitors from the banking industry who dominate the market.
- That even though we only maintain a small five percent market share, the competition we do provide the banks and the limited services we are allowed to offer to our more than 550,000 member/owners, does indeed benefit Kansas consumers. In short, we have failed to identify the harm that a pro-growth, free-market approach has caused.
- If you do desire to make a change, that you identify this as a "credit union" problem that should be solved not by our competitors, but by the credit union regulator and/or the credit union industry. Perhaps the solution that is the fairest and that would provide the necessary clarity to the credit union department regulator is to codify the current practice as consistent with the precedence that has been set and works to the overwhelming benefit of Kansas consumers.



## KANSAS CREDIT UNION ASSOCIATION

Testimony for the  
Senate Financial Institutions and Insurance Committee

In Opposition to Senate Bill 535

Jerel Wright  
AVP—Governmental & Public Affairs  
Kansas Credit Union Association

Thursday, March 6, 2008

Chairman Teichman and members of the committee:

I am Jerel Wright, with the Kansas Credit Union Association, the trade association representing the interests of 87 state-chartered credit unions and 24 federally-chartered credit unions operating in Kansas. We oppose SB 535 as it will have a chilling affect on 78% of the credit union in Kansas.

As I read through SB 535, I was reminded of why I work so hard on behalf credit unions. My sole motivation is to serve the members of our organization, just as a credit union's principal motivation is to serve the consumers who become the member owner's of a credit union. When I do my job right, I ultimately serve every Kansas consumer by helping to promote their right to have a credit union as a choice among the many financial service providers in Kansas.

### **SB 535 is an attack on consumer choice.**

Credit unions oppose SB 535 because the bill appears to rob Kansas consumers and Kansas credit unions of their decision over who can become a credit union member. This bill takes away our right to choose by giving the Kansas banking industry the power to create credit union law. I believe Kansas consumers and Kansas credit unions deserve the right to make our own financial choices rather than surrendering them to the banking industry. The bill will effectively eliminate the state charter in Kansas.

Would you please consider my thoughts about the proposed change which some would describe as grandfathering of current members? Grandfathering in this bill simply means to establish that current members stay members.

Let me share my review of one short, simple subsection that appears to propose language that is favorable for a credit union, but falls devastating short of protecting a credit union's right to serve their current geographic area as approved by the state of Kansas. The language appears to reasonably establish that a member can stay a member of a credit union, forever.

*FI & I Commi Hee  
March 6, 2008  
Attachment 4*



## KANSAS CREDIT UNION ASSOCIATION

This provision becomes unreasonable when read along with New Section 1 pertaining to branching. New Section 1 appears to establish that a credit union may bring in new members to a branch only when they fall within the “stated field of membership”. So, while a credit union is allowed to keep a branch to serve existing members, no new members may be served by the branch if they are fall outside of the “stated field of membership”. Next, in looking at Section 2 pertaining to field of membership, new membership at the branch may be constricted because it falls outside of the credit union’s “stated field of membership”. The combined changes in New Section 1 and Section 2 may lead to the slow death of the branch because no new member may join the credit union through this branch.

This section on grandfathering seems to be very straightforward, yet the section on grandfathering becomes a farce because it provides no protection for the credit unions. The proposed simple solution becomes confusing and the helping hand extended by the banking industry to the credit union industry and to all Kansas consumers becomes but an illusion.

SB 535 is a bad bill!

SB 535 harms credit unions!

So, is the credit union industry right? Is the banking industry right? In the end, after you have heard all of the debate, ask yourself one question.

### Is SB 535 good for Kansas consumers?

SB 535 is as attack on consumer choice. We urge you to vote against SB 535. If you feel compelled to approve legislation to clarify credit union common bond and field of membership, we urge you to support HB 2676.

## 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 confirmed 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 BILL No. 2676

By Committee on Insurance and Financial Institutions

1-24

9 AN ACT relating to credit unions; concerning membership; amending  
10 K.S.A. 17-2205 and repealing the existing section.

11

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

13 Section 1. K.S.A. 17-2205 is hereby amended to read as follows: 17-  
14 2205. (a) The membership of a credit union shall consist of the organizers  
15 and such persons, societies, associations, copartnerships and corporations  
16 as which have:

17 (1) Been duly elected to membership and have;

18 (2) subscribed to one or more shares and have paid for the same, and  
19 have; and

20 (3) complied with such other requirements as the articles of incor-  
21 poration may contain. ~~Credit union organizations shall be limited to~~  
22 ~~groups (of both large and small membership) having a common bond of~~  
23 ~~occupation or association or to groups residing within a well-defined~~  
24 ~~neighborhood, community or rural district.~~

25 (b) *The membership of a credit union may include any combination*  
26 *of one or more groups of both large and small membership having com-*  
27 *mon bonds of occupations, associations or geographic areas.*

28 (c) *As used in this section "geographic areas" means all or portions*  
29 *of one or more counties.*

30 Sec. 2. K.S.A. 17-2205 is hereby repealed.

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

P.O. Box 7704  
Wichita, KS 67277-7704

Fo. na Boulevard  
Wichita, KS 67215

316.517.6578



Cessna Employees  
Credit Union

Toll-Free: 877.8...  
Fax: 316.

Connect Line: 316.941.4228  
or: 888.446.4228

Loans: 316.517.7149

**Testimony in Opposition of SB 535  
Senate Financial Institutions & Insurance Committee  
March 6, 2008**

I am Larry Damm, President of Cessna Employees Credit Union in Wichita, Kansas. Our Credit Union serves employees and retirees of Cessna Aircraft Company and their family members. I have returned early from the national Credit Union Governmental Affairs Conference and appreciate the opportunity to address this committee.

I have visited a number of legislators over the last several months regarding the issue before you. A common question is, "Why are you guys doing this to us?" The "you guys" refer to both the credit union and banking industry representatives involved in this intra-industry struggle.

As a reminder, this process began when the Kansas Bankers Association successfully convinced the Legislative Post Audit Committee to launch a review of the Kansas Department of Credit Unions over three years ago. Through one paragraph in that report regarding an auditor's "opinion" of interpretation of the "field of membership" statute, they have been able to successfully move the debate from KDCU to a review of the entire Kansas credit union industry and through several stages of legislative committee hearings. That brings us to today.

The purpose of my testimony is to reflect on the fundamental structural differences between credit unions and banks. Although we offer many of the same products and services, we are not "just like taxpaying banks". The differences I will point out are not meant to judge "good" versus "bad", they are simply to note that we are very different.

Banks are "for profit corporations", credit unions are "not-for-profit financial cooperatives". This can be clearly differentiated by referring to the federal tax code. Banks operate under corporate tax laws generally as Chapter C or Sub S corporations. Credit unions operate under an entirely different 501(c) section of the tax code. As a side note, there is no reference as to who credit unions must serve in operating under this code section.

Banks are owned by their stockholders. Stockholders invest in a bank for the purpose of getting a return through reasonable profits of the operation. Their investment is "at-risk", they deserve a return. This is not bad.

Credit unions do not issue stock. Credit unions are owned by their members. All of their members! In their ownership, they also deserve a "return on their investment". But credit unions are "not-for-profit". Members receive their return in the form of rates, fees and services.

*FI&I Committee  
March 6, 2008  
Attachment 5*

The Board of Directors of a bank are elected by their stockholders and are generally paid fees for their services. Again, they are providing service both as owners and representatives of other stockholders, so this is not bad. Credit union directors are elected by the members of the credit union and have similar fiduciary responsibilities to a bank board. However, by law, they cannot be compensated. They are Volunteers!

I'd like to also point out a similarity that goes somewhat unnoticed. KANSAS CREDIT UNIONS PAY TAXES! We pay sales taxes, payroll taxes and real and personal property taxes. Our tax exempt status applies only to federal and state income (or privilege) tax.

The sole purpose of a credit union is to SERVE ITS MEMBERS! The banking community has characterized Kansas credit unions as "lawbreakers" and that we are "violating the public trust". This is just not true. We are good people, trying to help good people, under the rules provided to us over the last several decades.

In closing, it is my opinion that the timing of this type of legislation couldn't be worse. The country is experiencing an economic slowdown. Although less prevalent in our region, Kansans will be impacted by the "subprime mortgage crisis" created by others in the financial services industry. Many financial institutions are tightening their credit policies, making it even more difficult for consumers to navigate through their personal financial situations.

As I noted earlier, I returned early from a conference in Washington DC. We heard from several Congressional leaders. They had a common theme. As they spoke of their concerns over the subprime mortgage crisis, they first acknowledged that credit unions were not a part of the problem. However, they challenged our industry to do what we do best. They challenged us to be there for our members and to be a part of the solution!

It is ironic that here in Kansas we are on a different path. Instead of broadening availability of financial services to Kansas consumers, the Kansas Bankers Association and their associates are asking you to restrict access to credit union financial services and limit consumer choice. I respectfully ask that you oppose SB535. This is just bad public policy.

Thank you for giving me the opportunity to make these comments.



Testimony of Lee Williams

IN OPPOSITION

Of

Senate Bill 535

*FI&I Committee  
March 6, 2008  
Attachment 6*

March 6, 2008

To the members of the Financial Services Committee

Please vote against Senate Bill 535.

**Consumers should continue to have the right to choose.** The option of choosing and the availability of credit unions help all consumers.

All taxpayers, whether members or not, benefit from the presence of credit unions in the marketplace. Credit Union competition helps keep prices lower.

**It's going to be tough for consumers in the coming months,** with the mortgage crisis, declining stock market, lay-offs and high energy prices, families will be stretched. Credit unions perform best during these times, when consumers are looking for real solutions to real problems. Our alternative to payday loan program being one example of our efforts and since we were not a part of the mortgage problem we can be a part of the solution for many consumers.

**Please consider this component of the post audit study:** "Credit unions have not grown at the expense of other businesses." We are about "People Helping People" it is not about profit. Kansans need and benefit from this choice.

In 1929, credit union statute was written, it was short, sweet and simple, leaving room for the document to evolve. So, that the not-for profit, volunteer led, democratically ran financial cooperative... (a credit union) would a foundation on which to build. That has taken place during the last 60 years. Our regulator and our credit unions have made decisions that have enhanced the financial lives of our member owners. Today, almost 600 thousand Kansans choose a credit union. Credit union success has helped consumers, without hurting other businesses or requiring state assistance.

In the coming month, real Kansans will face real problems and they will need real solutions. **Let credit unions be there to help** as we are today, not

as a hodgepodge of confusion, closed branches, expelled fields-of-memberships and entities waiting for legal interruptions.

I ask on behalf of the 8600 current members of Central Star Credit Union,  
**please vote NO to Senate Bil** ---

Testimony for the  
Senate Committee of Financial  
Institutions and Insurance

March 6, 2008

By

Gary Regoli  
President/CEO  
Boeing Wichita Credit Union

*FI&I Committee  
March 6, 2008  
Attachment 1*

Good morning. My name is Gary Regoli, and I'm President/CEO of the Boeing Wichita Credit Union, or as we're more commonly known, BWCU.

**A. Senate Bill 535 (SB 535)**

The following sections of SB 535 need more discussion:

- 1) The sub committee stressed to an inquirer that in the proposed branching transparency process the Administrator has the right to determine if a hearing happens (Page 2, line 7), inferring that the transparency process is not meant to be cumbersome to the parties involved. However, Page 2, line 41 *requires* the Credit Union Council to conduct a hearing if one is requested by an adversely affected or aggrieved person. This is inconsistent.
- 2) Page 5, lines 16 – 18 set capital standards for credit unions wanting to add a branch. These standards are not consistent with capital standards in the credit union industry.
- 3) While the intent is greatly appreciated, the proposal to grandfather a credit union's planned branch on land recently under contract in a county that is not contiguous to the credit union's field of membership presents a dilemma. It appears that anyone who is not a family member of an existing credit union member cannot be solicited to join the credit union in their new branch.

**B. Sentiments**

In all of the meetings, hearings and discussions on this topic there have been some sentiments expressed by Senators sitting in this room.

Sentiment 1

*"I have friends on both sides of this issue and I do not want to be forced to choose."* Constituents are the third, most important friend. Forget credit unions and banks for a moment – would your constituents want more or fewer choices for their financial services provider? Has the Attorney

General, any consumer advocacy group or public opinion poll spoken against credit unions in Kansas?

Sentiment 2

*“Some credit unions will have to make some hard choices.”* Actually, if this law were enacted, we would have no choice but would be forced to shrink our FOM. The hard choices are to be made by this Committee. Has the committee been shown that at least one credit union’s services would be available to all Kansans? Is it appropriate for a CU bill to be written by a KBA attorney? Do you really believe that change is in the best interest of your constituents? Not just the constituents that make sizeable contributions election campaigns but those working stiffs that get up every day and go to work to try to make enough money to pay their bills and buy expensive gasoline. Should payday lenders be able to open outlets just about anywhere they want while Kansas Credit Unions are banished?

If I remember correctly, last year Mr. Wareham testified that when he recently shopped for a car loan, he actually could have received a lower rate from a credit union than his bank. But he could not bring himself to borrow from a credit union. If I were in his shoes I might have made that same decision. I appreciate his honesty in sharing that with the Interim Committee. The same choice Mr. Wareham was given must be allowed to continue for all Kansans when they are shopping for their car loan or looking for the best rate when depositing their hard earned dollars.

(Exhibit 1)

Sentiment 3

*“My main concern is the rule of law and I believe credit unions have expanded beyond their original intent.”* None of us were in Topeka, KS in 1929 when Mr. Roy Bergengren visited here, perhaps in these very halls, and worked towards having the Kansas credit union law passed as he had done in many other states. What did he say about growth? (Exhibit

2)

Has this committee heard enough discussion about the (large and small) parenthetical statement in Mr. Bergengren's K.S.A. 17-2205? What is the definition of large? (Exhibit 3)

**C. Impact**

Will the US Credit Union industry consider Kansas as being progressive in its treatment of its own credit unions or will you decide to place Kansas on a short list of states that are considered unfriendly to their own credit unions such as our neighbors to the east in Missouri? This is a chance to be progressive, as they were in Michigan just a few years ago, (Exhibit 4) or to cave to special interests.

COMPETITOR COMPARISON  
WICHITA MARKET

	March 3, 2008	July 23, 2007
	AUTO	
	Used 100%LTV	USED 100%LTV
	2005 Model Vehicle	2005 Model Vehicle
	60 mos	60 mos
<b>BWCU</b>	<b>5.74%</b>	<b>6.74%</b>
<b>Mid-American</b>	6.49%	6.89%
<b>CU of A</b>	5.99%	7.00%
<b>Cessna</b>	6.20%	6.45%
<b>Central Star</b>	6.00%	6.75%
<b>Equishare</b>	6.75%	7.00%
<b>Golden Plains</b>	6.10%	6.90%
<b>Credit Union Average</b>	<b>6.18%</b>	<b>6.82%</b>

CREDIT UNIONS

<b>Intrust</b>	5.80%	6.90%
<b>Southwest Natl</b>	7.89%	7.99%
<b>Emprise Bank</b>	7.25%	7.25%
<b>Bank of the West</b>	6.74%	7.33%
<b>Bank of America</b>	5.19%	6.64%
<b>Rose Hill Bank</b>	7.00%	8.43%
<b>Capitol Federal</b>	7.50%	7.50%
<b>Bank Average</b>	<b>6.77%</b>	<b>7.43%</b>

BANKS

	February 21, 2008	July 30, 2007
	Deposit Rates	
	1 year CD	1 year CD
<b>BWCU</b>	3.15	4.50
<b>Credit Union of America</b>	3.80	5.00
<b>Mid American Credit Union</b>	4.25	3.30
<b>Credit Union Average</b>	<b>3.73</b>	<b>4.27</b>

<b>Intrust Bank</b>	3.10	4.00
<b>Emprise Bank</b>	2.19	4.27
<b>Fidelity Bank</b>	2.75	4.00
<b>Commerce Bank</b>	2.75	4.00
<b>Wachovia Bank</b>	1.90	5.01
<b>Capitol Federal Savings</b>	3.50	5.25
<b>Rose Hill Bank</b>	3.25	4.25
<b>Bank Average</b>	<b>2.78</b>	<b>4.40</b>

<b>Edward Jones</b>	3.30	5.15
<b>Fidelity Investments</b>	3.20	5.15
<b>Merrill Lynch</b>	3.05	4.95
<b>Brokerage House Average</b>	<b>3.18</b>	<b>5.08</b>

5-2

#1  
7-5



COMPETITOR COMPARISON  
Lawrence Market

	March 3, 2008	July 23, 2007
	<b>AUTO</b>	
	<b>Used 100%LTV</b>	<b>USED 100%LTV</b>
	2005 Model Vehicle	2005 Model Vehicle
	60 month Term	60 month Term
<b>BWCU</b>	<b>5.74%</b>	<b>6.74%</b>
<b>KU Credit Union</b>	5.95%	6.39%
<b>Super Chief CU</b>	6.49%	6.39%
<b>Free State CU</b>	6.25%	7.00%
<b>Midwest Regional</b>	5.75%	9.50%
<b>Educational CU</b>	6.25%	6.40%
<b>Comm America</b>	6.40%	8.15%
<b>Credit Union Average</b>	<b>6.12%</b>	<b>7.22%</b>
<b>Douglas County Bank</b>	7.00%	8.25%
<b>Peoples Bank</b>	7.25%	7.50%
<b>U S Bank</b>	4.99%	6.99%
<b>Capital City Bank</b>	6.49%	7.59%
<b>Central National Bk</b>	5.90%	9.02%
<b>Bank Average</b>	<b>6.33%</b>	<b>7.87%</b>

CREDIT UNIONS

Banks

	February 21, 2008	July 30, 2007
	<b>1 year CD</b>	<b>1 year CD</b>
<b>BWCU</b>	3.15	4.50
<b>KU CU</b>	3.10	4.50
<b>Community America CU</b>	3.25	5.15
<b>Credit Union Average</b>	<b>3.17</b>	<b>4.72</b>
<b>Commerce Bank</b>	2.65	4.00
<b>Douglas County Bank</b>	3.00	4.00
<b>US Bank</b>	1.45	3.43
<b>University National Bank</b>	3.55	4.06
<b>Peoples Bank</b>	2.22	3.55
<b>Corner Bank</b>	2.83	4.06
<b>Bank Average</b>	<b>2.62</b>	<b>3.85</b>
<b>Edward Jones</b>	3.30	5.15
<b>Fidelity Investments</b>	3.20	5.15
<b>Merrill Lynch</b>	3.05	4.95
<b>Brokerage House Average</b>	<b>3.18</b>	<b>5.08</b>

9-6

## CRUSADE

The Fight for Economic Democracy  
In North America, 1921-1945

Roy F. Bergengren  
In collaboration with  
Agens C. Garland and James W. Brown  
Exposition Press – New York

“Although there are now approximately seven million credit union members in North America and their credit unions reach in service at least twenty million people, the organization of credit unions has just begun. We hope to see, as the years go by, many million more people, of the same general economic category as those already served by credit unions, eligible to the thousands of additional credit unions that they will organize. The seven million members are a fair cross section of the rank-and-file citizenship of North America. The important advantage of the credit union setup is that the membership can be increased to a hundred million without any change in the credit union laws. Another equally important fact is that the credit union is always an organization managed locally, with the sovereign power always in the hands of local officers; great growth does not offer any threat of too great a concentration of power.”

*What Is a Credit Union (p 23-24)*  
*Growth and Potential*

#2

7-7

**17-2204a Investments; Limitations; definition of credit union services corporation.**

(a) Notwithstanding any other provision contained in the laws of this state providing for investments by credit unions, such credit unions may invest, through their board of directors and under written investment policies established by the board, in the bonds, debentures or other similar obligations issued under the authority of and pursuant to the act of congress known as the farm credit act of 1971, as amended. The total amount of such bonds, debentures or other similar obligations of any one obligor or maker shall at no time exceed 15% of the shares, undivided earnings and reserves of the credit union.

(b) Subject to rules and regulations of the administrator, credit unions may invest, through their board of directors and under written investment policies established by the board, in capital stock of and make loans to a credit union services organization, except that any such investment in the capital stock of or loans to a credit union services organization shall not exceed, in the aggregate, 2% of the credit union's unimpaired shares, reserves and undivided earnings. "Credit union services organization" means an organization established to provide operational and financial services primarily to credit unions.

(c) Subject to written guidelines issued by the administrator, a credit union may invest its funds, through its board of directors and under written investment policies established by the board, in investment securities defined by the administrator. Except for obligations of wholly owned government corporations, or obligations which provide a return of principal and interest which is guaranteed by an agency of the federal government, the total amount of such investment securities of any one obligor or maker held by the credit union shall at no time exceed 15% of the shares, undivided earnings and reserves of the credit union.

(d) Except as provided in subsection (g) of K.S.A. 17-2204, and amendments thereto, a credit union is prohibited from participating directly or indirectly in: (1) The purchase or sale of a standby

commitment; (2) a futures contract; (3) in adjusted trading; or (4) in a short sale of a security. A credit union's directors, officials, committee members and employees, and immediate family members of such individuals, may not receive pecuniary consideration in connection with the making of an investment or deposit by the credit union.

(e) Nothing contained in this section shall be construed to prohibit any funds of a credit union from being invested as now provided by law.

History: L. 1957, ch. 153, § 1; L. 1971, ch. 76, § 1; L. 1973, ch. 93, § 1; L. 1987, ch. 85, § 2; L. 1995, ch. 128, § 1; L. 1996, ch. 72, § 1; July 1.

**17-2205 Membership of credit union.**

The membership shall consist of the organizers and such persons, societies, associations, copartnerships and corporations as have been duly elected to membership and have subscribed to one or more shares and have paid for the same, and have complied with such other requirements as the articles of incorporation may contain. Credit union organizations shall be limited to groups (of both large and small membership) having a common bond of occupation or association or to groups residing within a well-defined neighborhood, community or rural district.

History: L. 1929, ch. 141, § 5; L. 1951, ch. 204, § 2; L. 1972, ch. 57, § 2; July 1.

**17-2206 Supervision by administrator; reports, plans and programs, penalties; examination, fees.**

(a) Credit unions shall be subject to the exclusive supervision of the administrator and shall make and keep current such books and records, prepare reports and establish plans and programs concerning the safety and soundness of the credit union as may be required by rules and regulations adopted by the administrator and shall make a report of condition to the administrator at least semiannually, on blank forms to be supplied by the

**490.352 Domestic credit union; membership; composition; field of membership; application; approval by commissioner; revision; extension.**

Sec. 352. (1) The membership of a domestic credit union is comprised of each person that organized the domestic credit union, and each person that meets all of the following:

- (a) The person belongs to a group of persons that is within the domestic credit union's field of membership.
- (b) The person is accepted by the domestic credit union as a member.
- (c) The person pays any entrance or membership fee required by the domestic credit union.
- (d) The person pays for 1 or more shares, including a membership share if the domestic credit union requires ownership of a membership share.
- (e) The person complies with any other requirement for membership contained in the domestic credit union's bylaws.

(2) The credit union board of a domestic credit union shall establish the field of membership for a domestic credit union. The field of membership shall consist of 1 or more of the following:

- (a) One or more groups of any size that have a common bond of occupation, association, or religious affiliation.
- (b) One or more groups composed of persons whose common bond is residence, employment, or place of religious worship within a geographic area composed of 1 or more school districts, counties, cities, villages, or townships.
- (c) One or more groups whose common bond is common interests, activities, or objectives.

(3) One or more credit unions may serve 1 or more groups described in subsection (2).

(4) A credit union board that establishes or revises the field of membership of the domestic credit union shall submit the proposed or revised field of membership to the commissioner for approval on an application

form provided by the commissioner. The commissioner shall promptly notify an applicant when he or she determines that an application is complete and the date of that determination. If the application seeks to revise

a field of membership to include 1 or more groups described in subsection (2)(b), the commissioner may require that the applicant provide additional information regarding the common bond of persons within the proposed geographical area or areas. The commissioner shall establish standards for obtaining this additional information.

(5) The commissioner has 60 days after the date of determination described in subsection (4) to approve or disapprove of an application under subsection (4). In reviewing an application under subsection (4), the commissioner must first determine whether the proposed field of membership meets the common bond requirements of subsection (2). If the commissioner determines that the proposed field of membership does meet the common bond requirements of subsection (2), then the commissioner may only disapprove of the application on the basis of safety and soundness of the domestic credit union. If the commissioner does not approve or disapprove of the application, or extend the 60-day period under subsection (6), within that 60-day

period, the application is considered approved as of the day after the 60-day period.

(6) The commissioner may extend the 60-day period described in subsection (5) for 1 or more additional 60-day periods for administrative reasons or to allow for public comment if the commissioner delivers notice

of each 60-day extension in writing to the domestic credit union before the 60-day period and any prior

Rendered Wednesday, March 05, 2008 Page 22 Michigan Compiled Laws Complete Through PA 18 of 2008

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60-day extensions expire. An extension notice shall explain the reason for the extension. If the commissioner

does not approve or disapprove of the application, or grant an additional 60-day extension, within a 60-day extension period, the application is considered approved as of the day after the 60-day extension period.

The

commissioner may grant any number of 60-day extensions, but the domestic credit union may treat any extension after the third 60-day extension as a disapproval of the application and may pursue any administrative or legal remedies available for a disapproval.

#4

(7) If authorized in the bylaws of the domestic credit union, a member that is no longer in the field of membership of the domestic credit union because the field of membership is revised under this section, or the member leaves the field of membership, may continue as a member, on the same basis as any other member,

or on a different basis if the bylaws establish a different basis for that continued membership.

(8) A domestic credit union shall respond to an application for membership within 30 calendar days after receiving it. If the domestic credit union determines that there is a sound business reason for the action, a domestic credit union may deny membership to any applicant for membership.

**History:** 2003, Act 215, Eff. June 1, 2004;—Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004.



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**Senate Financial Institutions & Insurance Committee**  
**Hearing on Subcommittee Balloon for SB 353**  
**Credit Union Common Bonds and Field of Membership**

**March 6, 2008**  
**Topeka, Kansas**

Madame Chairman Teichman and members of Senate Committee on Financial Institutions & Insurance, thank you for the opportunity to comment on the Subcommittee balloon for SB 535 relating to credit union common bonds and fields of membership. I am Leslie Kaufman, Executive Director for the Kansas Cooperative Council. 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.

We realize the subcommittee has invested much time in reviewing SB 535 and considerable effort to re-work portions of the bill. We appreciate their efforts but, at its core, the bill will dramatically alter the playing field for credit unions. Additionally, we think the bill could result in uneven treatment of credit unions in terms of growth potential depending on whether your institution is located in a border county vs. a more centrally located county vs. a larger metropolitan area.

Obviously, we see these issues much differently than the original proponents of the SB 353. As such, it is probably no surprise that the balloon before you is not what we would consider a workable "compromise" when it still moves significantly away from decades of precedent in credit union regulation. While we respect the differences in opinion and the work of the subcommittee, we continue to support the approach outlined in HB 2676 as a better alternative.

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