

SESSION OF 2012

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 287**

As Recommended by House Committee on
Financial Institutions

Brief*

House Sub. for SB 287 would amend and repeal several statutes governing the regulation of credit unions in Kansas to delete provisions that allowed credit unions to purchase private share insurance and to amend statutes pertaining to the appointment or employment of certain positions by the Administrator of the Kansas Department of Credit Unions to add to the list of persons the Administrator is authorized to appoint in the unclassified service.

Private Share Insurance

Credit unions would be required, under the bill (and the current law), to insure shares through the National Credit Union Share Insurance Fund (NCUSIF) or its successor. Credit unions also would be permitted to do all things necessary to obtain, continue, pay for and terminate private insurance coverage of its shares and share certificates in excess of the coverage provided by the NCUSIF. Under the bill, the private insurer providing excess share insurance coverage would be required to be approved by the Insurance Commissioner.

The bill would clarify that the application for NCUSIF insurance would be filed with the Kansas Department of Credit Unions and then forwarded to the National Credit Union Administration.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The bill would repeal KSA 17-2250 through 17-2259, KSA 17-2261, and KSA 17-2265 through 17-2267. Under the prior law, state-chartered credit unions were permitted to obtain share insurance through NCUSIF or private insurance (either an insurance company or a guarantee corporation). Under the bill, credit unions would be permitted to purchase excess share insurance from a private insurer.

Unclassified Service; Salary Schedule

The bill would grant the Administrator the authority to appoint financial examiners and an administrative assistant in the unclassified service (not subject to the approval of the Governor); these persons would receive an annual salary fixed by the Administrator in accordance with an equitable salary schedule established by the Administrator for all unclassified positions. The provision authorizing the Administrator's appointments for these positions would not affect the classified status of any person employed with the Department on the day immediately preceding the effective date of this act.

The bill also would grant the Administrator, subject to appropriations, the authority to appoint financial examiners, financial examiner administrators, case managers, and a business manager within the Kansas Department of Credit Unions, as determined necessary by the Administrator. Each position appointed after the effective date of the bill would be in the unclassified service, would have special training and qualifications for the appointed position, and would serve at the pleasure of the Administrator.

The Administrator would be required to prepare and maintain an equitable salary schedule for persons appointed in the unclassified service. The bill also would provide that the average of the amount of compensation in the salary schedule could not exceed the average compensation of corresponding state regulatory positions in similar geographic areas. Under the bill, the salary schedule must be reported to the Credit Union Council on an annual basis.

Background

The House Committee on Financial Institutions recommended a substitute bill to incorporate the provisions of SB 287, as amended by the Senate Committee on Financial Institutions and further amended by the House Committee, and provisions relating to unclassified positions and establishment of an equitable salary schedule by the Administrator, Kansas Department of Credit Unions (SB 431, as recommended by the Senate Committee, and further amended by the House Committee).

The House Committee made a technical amendment to the provisions of SB 287 to delete a statute that was restored to existing law by a Senate Committee amendment. The House Committee also amended SB 431 to clarify the compensation provisions for unclassified positions established by the equitable salary schedule. The substitute bill would be effective upon publication in the statute book; SB 431, as recommended by the Senate Committee, would have been effective upon publication in the *Kansas Register*.

SB 287 was introduced at the request of the Administrator, Kansas Department of Credit Unions, who testified that a requirement enacted by the Kansas Legislature in 1992 required credit unions to insure their members' shares (deposits) with insurance provided by the National Credit Union Share Insurance Fund (NCUSIF). The NCUSIF standard maximum share insurance amount is \$250,000 (permanently established in the Dodd-Frank Wall Street Reform and Consumer Protection Act) and is backed by the full faith and credit of the U.S. Government. The Administrator noted amending and repealing sections of the credit union law will remove language that is not used and is unnecessary. The Administrator later appeared before the Committee to request consideration of an amendment providing authority to appoint certain agency positions in the unclassified service.

A representative of the Kansas Credit Union Administration (KCUA) appeared in opposition to the bill at the Senate Committee hearing and requested an amendment to allow credit unions the ability to utilize excess share insurance. The representative also requested restoration of stricken language addressing disclosure of confidential information to a private insurer, stating that private insurers could be interpreted to mean a wider variety of entities, including bonding companies providing coverage for losses to credit unions. The representative indicated that if the amendments were adopted, the KCUA would hold a neutral position on the bill.

The Senate Committee on Financial Institutions and Insurance recommended amendments to allow for the purchase of excess coverage for share insurance through a private insurer and to restore a disclosure provision in the current law.

SB 431 was introduced by the Senate Ways and Means Committee. The Credit Union Administrator testified in support of the bill, stating the current classified system has failed to sustain the salary levels of the Kansas Department of Credit Union's staff at a competitive and reasonable level. The Department, the Administrator indicated, continues to fall further behind in its compensation for its existing classified examiners resulting in, over the past 5 years, the loss of three experienced examiners to the agency that supervises and charters federal credit unions. The Administrator highlighted a recent salary study comparing the salaries of financial examiner principals employed by the Department with the most experienced field examination staff of regulators in the surrounding states, Iowa, and Texas, as well as the federal regulator. The Administrator noted any movement from the classified service to the unclassified service by any existing employee would be voluntary and the Department would phase the salary increases in over a two-year period to minimize the effect on fees assessed to credit unions. A representative of the Kansas Credit Union Association (KCUA) spoke in support of the bill, citing KCUA's support of

a strong state charter option for credit unions in Kansas (under the dual chartering system for credit unions) and further stating that having a state regulatory agency with the resources it needs to hire and retain experienced examiners is an important piece of the state charter option. There were no opponents to the bill at the time of the Senate Committee hearing.

The fiscal note prepared by the Division of the Budget on SB 287 states the Kansas Department of Credit Unions indicates that the bill would have no fiscal effect on its operations or the operations of credit unions. The Department indicates that credit unions have been required to purchase share insurance from the NCUSIF since 1992 and this bill would eliminate outdated language referring to private share insurance. The Insurance Department indicates that the bill would have no fiscal effect.

The fiscal note on SB 431 states the Department of Credit Unions indicates the bill would allow the agency to increase expenditures on salaries and wages by \$48,117 in FY 2013 and by \$51,726 in FY 2014. The additional expenditures, if authorized by an appropriation bill, would be from the Credit Union Fee Fund. The agency also indicates the additional salaries and wages would allow it to retain experienced examination staff, attract qualified candidates, and address significant salary gaps that exist between current salary levels and those of other financial regulatory agencies. Any fiscal effect associated with the bill is not reflected in *The FY 2013 Governor's Budget Report*.