

**2023 SENATE INDUSTRY AND BUSINESS**

**SB 2266**

# 2023 SENATE STANDING COMMITTEE MINUTES

## Industry and Business Committee Fort Union Room, State Capitol

SB 2266  
1/31/2023

A bill relating to credit union membership
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2:30 PM Chairman D. Larsen called the meeting to order. Members present: Chairman D. Larsen, Vice Chairman Kessel, Senator Barta, Senator Klein, Senator Boehm.

### Discussion Topics:

- Credit union memberships
- Common Bond of Occupation
- Checklist for membership
- Movement of customers
- Taxation
- Federal and State Differences
- Extension of Radius
- Territory boundaries

2:30 PM Senator Erbele, North Dakota State Senator, District 28, introduced SB 2266 and testified in favor. #18655

2:34 PM Jeff Olson, President and CEO, North Dakota Credit Union Association, testified in favor of SB 2266. #18653

2:57 PM Mike Schenk, Deputy Chief Advocacy Officer for Policy Analysis and Chief Economist, Credit Union National Association, testified in favor of SB 2266. # 18652

3:14 PM Darla Schafer, Manager/CEO, Flasher Community Credit Union, testified in favor of SB 2266. # 18651

3:22 PM Tyler Neether, Vice President, Town and Country Credit Union, testified in favor of SB 2266. # 18656

3:30 PM Bob Herrington, President and CEO, North Star Community Credit Union, testified in favor of SB 2266. #18648

3:48 PM Matt Perdue, Government Relations Director, North Dakota Farmers Union, testified in favor of SB 2266. #18174

4:00 PM Barry Haugen, North Dakota Independent Bankers Association, testified in opposition to SB 2266. #18642

4:01 PM Sarah Getzloff, CEO, Security First Bank of North Dakota, testified in opposition to SB 2266. #18646

4:18 PM Rick Clayburg, President and CEO, North Dakota Bankers Association, testified in opposition to SB 2266. # 18643

4:47 PM Tim Karsky, Executive Director, Choice Banks, testified in opposition to SB 2266. #18639

4:57 PM Lise Kruse, Commissioner, Department of Financial Institutions, testified neutral. (verbal)

Additional Written Testimony:

Shawn Schafer #17831

Jay Landsiedel #17981

Bruce Jolly #18644

Independent Community Bankers of America #18669

5:09 PM Chairman D. Larsen closed the hearing.

*Brenda Cook, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

## Industry and Business Committee Fort Union Room, State Capitol

SB 2266  
2/6/2023

A bill relating to credit union membership.
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**10:08AM Chairman D. Larsen** called the meeting to order.

Members present: Chairman D. Larsen, Senator Barta, Senator Klein, Senator Boehm.

Members absent: Vice Chairman Kessel.

### Discussion Topics:

- Amendments
- Possible additional amendments
- Credit union field of membership
- Relevant distance

**10:09AM Chairman D. Larsen** discussed an amendment. 23.0856.01003. #19274

**10:10AM Senator Klein** will be bringing amendments.

**10:35AM Chairman D. Larsen** closed the meeting.

*Carie Winings, Chief Clerk*



# 2023 SENATE STANDING COMMITTEE MINUTES

## Industry and Business Committee Fort Union Room, State Capitol

SB 2266  
2/6/2023

A bill relating to credit union membership
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2:50 PM Chairman D. Larsen called the meeting to order. Members present: Chairman D. Larsen, Senator Barta, Senator Klein, Senator Boehm. Members absent: Vice Chairman Kessel.

### Discussion Topics:

- Amendments
- Mileage
- Out of state charters
- Federal charters
- Reciprocity

2:50 PM Chairman Larsen reviewed the bill.

2:52 PM Senator Klein reviewed the proposed amendments.

2:55 PM Paul Brucker, President of Railway Credit Union of Mandan, answered questions about SB 2266.

3:01 PM Lise Cruse, Commissioner, North Dakota Department of Finance, answered questions regarding SB 2266.

3:10 PM Chairman D. Larsen closed the meeting.

*Brenda Cook, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

## Industry and Business Committee Fort Union Room, State Capitol

SB 2266  
2/7/2023

A bill relating to credit union membership
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2:50 PM Chairman D. Larsen called the meeting to order. Members present: Chairman D. Larsen, Senator Barta, Senator Klein, Senator Boehm. Members absent: Vice Chairman Kessel.

### Discussion Topics:

- Committee action

2:50 PM Senator Klein moved to adopt the amendment LC23.0856.01002. (#19637)

2:50 PM Senator Barta seconded the motion.

Senators	Vote
Senator Doug Larsen	Y
Senator Greg Kessel	A
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Jerry Klein	Y

Motion Passes 4-0-1.

2:51 PM Senator Klein moved DO PASS SB 2266 AS AMENDED.

2:51 PM Senator Barta seconded the motion.

Senators	Vote
Senator Doug Larsen	Y
Senator Greg Kessel	A
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Jerry Klein	Y

Motion Passes 4-0-1

Chairman D. Larsen will carry the bill.

2:51 PM Chairman D. Larsen closed the meeting.

*Brenda Cook, Committee Clerk*

February 3, 2023

AGC  
2-7-23  
(1-2)

PROPOSED AMENDMENTS TO SENATE BILL NO. 2266

- Page 1, line 13, remove the overstrike over "a"
- Page 1, line 13, remove the underscored colon
- Page 1, line 14, remove "a. A"
- Page 1, line 14, remove the overstrike over "or"
- Page 1, line 14, remove the underscored semicolon
- Page 1, line 15, remove "b. A common bond of"
- Page 1, line 15, remove the overstrike over "or to groups"
- Page 1, line 15, remove " ; or"
- Page 1, line 16, remove "c. A group"
- Page 1, line 17, remove "two-hundred-fifty-mile"
- Page 1, line 18, replace "[402.34-kilometer]" with "one-hundred-twenty-five-mile [201.17-kilometer]"
- Page 1, line 18, remove the overstrike over "~~the home office of the~~"
- Page 1, line 18, remove "a"
- Page 1, line 18, remove the overstrike over "Except as"
- Page 1, remove the overstrike over line 19
- Page 1, line 20, remove the overstrike over "~~defined by geography may not be located more than~~"
- Page 1, line 20, after "~~seventy-five~~" insert "one hundred twenty-five"
- Page 1, line 20, remove the overstrike over "miles"
- Page 1, line 21, after the overstruck closing bracket, insert "[201.17 kilometers]"
- Page 1, line 21, remove the overstrike over "~~from the credit union main office.~~"
- Page 1, line 23, remove the overstrike over "~~January 1, 2005~~"
- Page 1, line 23, remove "August 1."
- Page 1, line 24, remove "2023"
- Page 1, line 24, remove the overstrike over "geographic"
- Page 2, line 4, remove the overstrike over "A branch"
- Page 2, remove the overstrike over line 5
- Page 2, remove lines 11 and 12

Renumber accordingly

Alk  
2-7-23  
(2nd)

**REPORT OF STANDING COMMITTEE**

**SB 2266: Industry and Business Committee (Sen. Larsen, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2266 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 13, remove the overstrike over "a"

Page 1, line 13, remove the underscored colon

Page 1, line 14, remove "a.    A"

Page 1, line 14, remove the overstrike over "or"

Page 1, line 14, remove the underscored semicolon

Page 1, line 15, remove "b.    A common bond of"

Page 1, line 15, remove the overstrike over "or to groups"

Page 1, line 15, remove ";or"

Page 1, line 16, remove "c.    A group"

Page 1, line 17, remove "two-hundred-fifty-mile"

Page 1, line 18, replace "[402.34-kilometer]" with "one-hundred-twenty-five-mile [201.17-kilometer]"

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Page 1, line 18, remove "a"

Page 1, line 18, remove the overstrike over "~~Except as~~"

Page 1, remove the overstrike over line 19

Page 1, line 20, remove the overstrike over "~~defined by geography may not be located more than~~"

Page 1, line 20, after "~~seventy-five~~" insert "one hundred twenty-five"

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Page 2, remove the overstrike over line 5

Page 2, remove lines 11 and 12

Renumber accordingly

**2023 HOUSE INDUSTRY, BUSINESS AND LABOR**

**SB 2266**

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2266  
3/29/2023

Relating to credit union membership.

Chairman Louser called meeting to order 10:04 AM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.

Member absent: Representative Christy

### Discussion Topics:

- Federally chartered
- Parity to Federal charter
- Local control
- Communities
- Profits
- Returns
- Geography

### In Favor:

Senator Robert Erbele, District 28, Lehr, ND, #27005

Jeff Olson, President/CEO Dakota Credit Union Association, #26944 and proposed amendment, #27013

Darla Schafer, Manager/CEO, Flasher Community Credit Union, #26934

Steven Delap, President/CEO, VUE Community Credit Union, #26933

Bob Herrington, President/CEO, North Star Community Credit Union, #27009

Tyler Neether, Business Loan Officer, Town & Country Credit Union (no written testimony)

### Opposed:

Jordan Nelson, CEO, Peoples State Bank of Velva, ND, #27011

Sarah Getzlaff, CEO, Security First Bank of North Dakota, #27007

Tim Karsky, Executive Director of Correspondent Banking at Choice Bank, #27010

Barry Haugen, President, Independent Community Banks, #27008

Rick Clayburgh, President, ND Bankers Association, #27003, 27004

Chairman Louser adjourned the meeting 12:21 PM

*Diane Lillis, Committee Clerk*



# 2023 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2266  
3/29/2023

Relating to credit union membership.

Chairman Louser called meeting to order 3:15 PM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.

### **Discussion Topics:**

- Regulation
- Structure
- Risk

### **Neutral:**

Lise Kruse, Commissioner, ND Department of Financial Institutions (no written testimony)  
Corey Krebs, Deputy Commissioner, ND Department of Financial Institutions (no written testimony)

Chairman Louser adjourned the meeting 3:36 PM

*Diane Lillis, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2266  
4/4/2023

Relating to credit union membership.

Chairman Louser called meeting to order 10:12 AM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.

### Discussion Topics:

- Areas of service

Representative Warrey moved a do NOT pass.  
Representative Kasper seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	N
Representative Josh Boschee	N
Representative Josh Christy	Y
Representative Hamida Dakane	N
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	N
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	N
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion 9-5-0

Representative Schauer will carry the bill.

Chairman Louser adjourned the meeting 10:19 AM

*Diane Lillis, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2266, as engrossed: Industry, Business and Labor Committee (Rep. Louser, Chairman) recommends DO NOT PASS (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING).** Engrossed SB 2266 was placed on the Fourteenth order on the calendar.

**TESTIMONY**

**SB 2266**

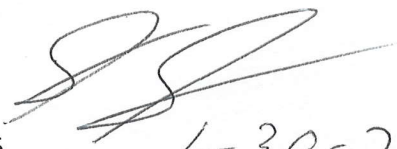
VOTE YES ON SB 2266!

Please help level the playing field for our North Dakota Credit Unions and vote YES on SB 2266 to allow State Chartered Credit Unions the same flexible membership rules as the Federally Chartered Credit Unions.

Vote Yes on SB 2266.

Shawn Schafer

Turtle Lake, ND 58575



1-30-23

Committee Chairman Doug Larsen and Members of the Committee:

My name is Jay Landsiedel and I reside at 2515 Bel Air Drive in Minot. I am providing written testimony today in favor of the SB 2266 for state chartered credit unions allowing expansion up to a 250 mile radius of any office of the credit union.

Why am I in favor of SB 2266?

For too many years, state chartered credit unions have been at an unfair competitive disadvantage with regards to membership expansion. Our sister credit unions that are federally chartered have not operated under this restriction for several years. State chartered credit unions are just asking for parity with the federal charter field of membership rules.

It would be a great benefit to our community, our current and potential members, if SB 2266 were passed. An example of this includes students at Minot State University who reside outside of a state chartered credit union's field of membership would have access to low cost banking services. Another advantage I see is those that live in western ND that commute to Minot for work would have access again to lower costing financial services.

Why are banks so concerned about SB 2266?

I am not totally sure. Credit unions have 10% or less market share for deposits in ND and this has remained steady for nearly three decades. Total bank assets in ND are ten times that of credit unions.

If my data is correct, ND community banks have grown deposits more in the last five years than credit unions have grown since inception.

Membership growth in ND credit unions has grown 8% since 2005 and nationally, credit union memberships have grown 54%. This difference, in my opinion, is primarily due to the antiquated field of membership rules that state chartered credit unions are subject to operate under.

The credit union I belong to operates under this thought - do what is right for our members, our communities and our staff/families. Please do what is right for state chartered credit unions.

I appreciate the opportunity to provide written testimony and ask for your vote in the affirmative for SB 2266.



Contact:  
**Matt Perdue, Lobbyist**  
[mperdue@ndfu.org](mailto:mperdue@ndfu.org) | 701.641.3303

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**Testimony of  
Matt Perdue  
North Dakota Farmers Union  
Before the  
Senate Industry & Business Committee  
January 31, 2023**

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Chairman Kannianen and members of the committee,

Thank you for the opportunity to testify on Senate Bill No. 2266. My name is Matt Perdue, and I am testifying on behalf of North Dakota Farmers Union's members. NDFU supports SB 2266, which would allow state-chartered credit unions to serve a larger geographic area.

SB 2266 will help keep more credit unions operating under a state charter. This is important to farmers and ranchers for two reasons. First, under the state charter, North Dakota credit unions are better able to serve the needs of family farmers and ranchers. The National Credit Union Administration generally discriminates against agricultural lending. Giving North Dakota's credit unions greater flexibility under the state charter will ensure the state's farmers and ranchers can continue to access this important lending option.

Second, SB 2266 will preserve state governance over our credit union system. Credit unions already have the option to operate under a federal charter. Overly restrictive state regulations may force state-chartered credit unions to transition to federal charter or to consolidate with larger credit unions. That would ultimately result in a loss of local and state control.

We respectfully request a "Do Pass" recommendation on SB 2266. Thank you for your consideration. I will stand for any questions.

Chairman Larsen, members of the IBL Committee, I am Tim Karsky, Executive Director of Correspondent Banking at Choice Bank, and I am a former Chief Examiner - Banks, Assistant Commissioner and Commissioner for the Department of Financial Institutions. While at the DFI, I served as Chairman for both the State Credit Union Board and State Banking Board (2001 to 2010). I am here today to ask you to give a DO NOT PASS, for SB 2266.

As you are aware, the bill will give state-chartered, community-based credit unions a 250 mile radius of the credit union for a "field of membership". I assume the radius will be from the home office, but line 18 of the bill deletes the words "the home office". Irrespective of the 250-mile radius issue, this deletion creates an ambiguity about whether the field of membership is measured from the home office or any branch. I don't think they should be given the 250-mile radius of the branch either.

I am also confused why the verbiage on page 2 line 4 and 5 is deleted about a branch not being able to expand the field of membership. The current language clearly stated this could not expand the field of membership. I do not have any



problems with credit unions opening a branch in their current field of membership to serve their current customers.

I also have questions why subsection 4 is added on Page two of the bill which adds language that the state credit union board may authorize a state-chartered credit union the same field of membership as a federal credit union. One of the main reasons for the dual banking and credit union systems is to allow states to regulate the charters in their individual states. There are many laws that are different between state and federal credit unions and the individual credit union decides under what charter they would like to operate under and whom their regulator will be. Many pick the state charter because of a regulator they have access to and knows their individual states economy and the types of business that is conducted. I am sure the state credit union examiners understand the agricultural economy better the national examiners. I have heard the threat about changing charters many times over the years when I was a regulator. Some state charters switched to a federal charter and some federal to a state. That is what makes the system work. I personally believe that every credit union organized had the option of being a state or federal charter and knew the difference in the field of membership at that time.

In regard to membership, I do believe credit unions should have a well-defined field of membership, and I think the amendments in 2005 gave them what was needed and it also stopped the leap frogging across the state by branching. It appears to me that the industry wants this ability to leap frog again by the amendments in this bill with many credit unions having already done so. I also believe that there is no individual in North Dakota that can't belong to a credit union that serves the geography where they reside.

One last comment is that banks have to comply with CRA, the Community Reinvestment Act while state chartered credit unions are not examined for this law. Our bank is subject to a very strict examination of this law (separate examination). If we get a poor rating in this examination, we may not be able to merge or branch until we get a better rating. We currently budget \$450,000 just in CRA donations to help meet the requirements of the law. In addition, we have one full time employee and some part time help in this area. In just direct salaries, travel, and training this adds another \$125,000. This would not include the mandatory training for all employees and the time keeping track of these loans and the cost of outside audits. It is very costly and time consuming. There are also other federal laws and regulations that apply to and impose costs on state and national banks that do not apply to credit unions.

If credit unions want to continue to expand their powers and membership area, I think we should consider treating them like a bank. All I want is to compete fairly. I have lost business loans because a credit union has underpriced my bank, and if they had to bear the additional operating costs that banks incur credit unions would have a less of an advantage.

Thank you for the opportunity to testify today and I would be happy to answer any questions you may have.

Tim Karsky

Executive Director of Correspondent Banking, Choice Bank



## Senate Bill 2266

Presented by: Barry Haugen, President  
Independent Community Banks of North Dakota ("ICBND")

Before: Senate Industry and Business Committee  
Senator Doug Larsen, Chairman

Date: January 31, 2023

Chairman Larsen and members of the Senate Industry and Business Committee (Committee), my name is Barry Haugen, and I am President of the Independent Community Banks of North Dakota (ICBND). ICBND membership totals over 50 independent community banks throughout our state. ICBND strongly opposes Senate Bill 2266 and respectfully requests a "Do Not Pass" recommendation from the Committee.

SB 2266 seeks to gut the credit union membership section of North Dakota Century Code in the interest of relatively unfettered expansion for certain credit unions at the expense of credit unions that wish to protect their service area. And the bill would certainly infringe upon the tax paying community banks that have effectively served their communities as Main Street stalwarts.

The bill would add "working, or attending school" to the membership qualification of a geographic region. This change, in and of itself, does not seem unreasonable.

However, the other changes in Section 1 are dramatic and extremely problematic. The first of those is the proposal to change the geographic radius of membership from **75 miles from the credit union main office to 250 miles of ANY credit union office or branch**. Essentially, this would allow state-wide field of membership. And paragraph 4 of Section 1 would **allow a state-chartered credit union to apply for federal standards for field of membership – effectively asking you to allow credit unions to pick and choose statutes that work best for them**. This equates to a "belt and suspenders" approach to ensure the best of both worlds.

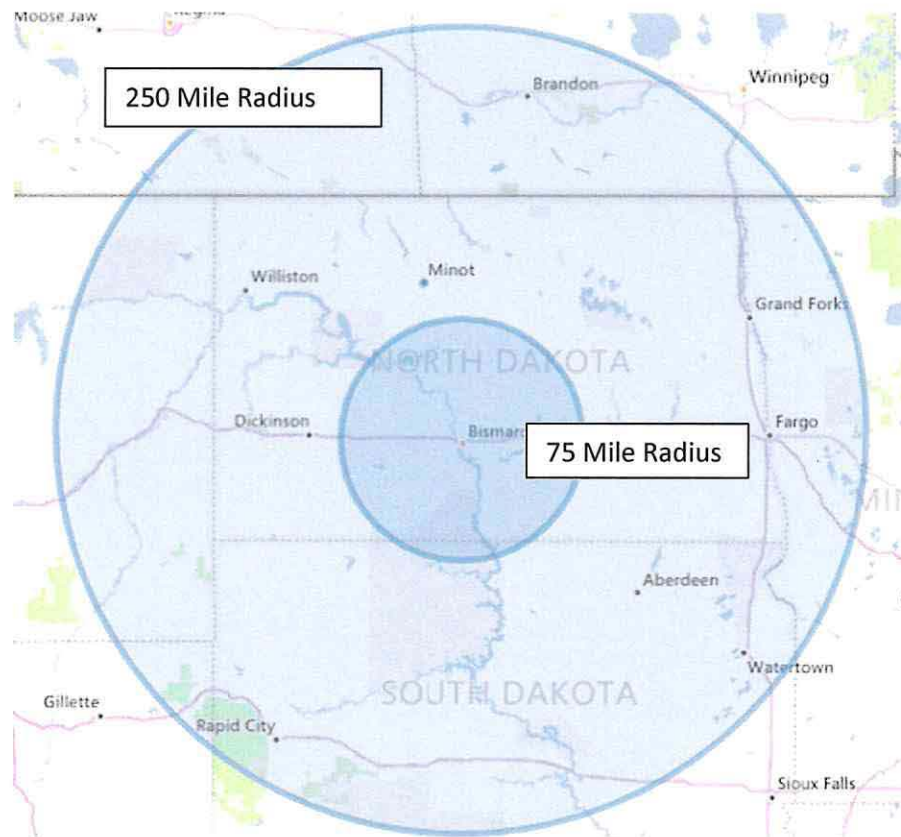
If passed, this legislation would pretty much establish two types of financial institutions in the state that would operate on a very uneven and inequitable playing field:

- credit unions who pay no federal or state income taxes and are not subject to the full set of regulations that community banks face, including Community Reinvestment Act rules; and
- community banks.



The credit union tax exemption is based on an outdated 100-year-old law that has never been revisited. Since that time, credit unions have become larger, more complex, and bank-like in their size, powers, product and service offerings, and fields of membership. With these changes, they've also assumed more risk. Credit unions were chartered by Congress to enable people of small means with a "common bond" to pool their resources to meet their basic deposit, savings and borrowing needs. While some credit unions operate that way today, this bill seeks to grow the membership and markets of other credit unions well beyond their statutory mission.

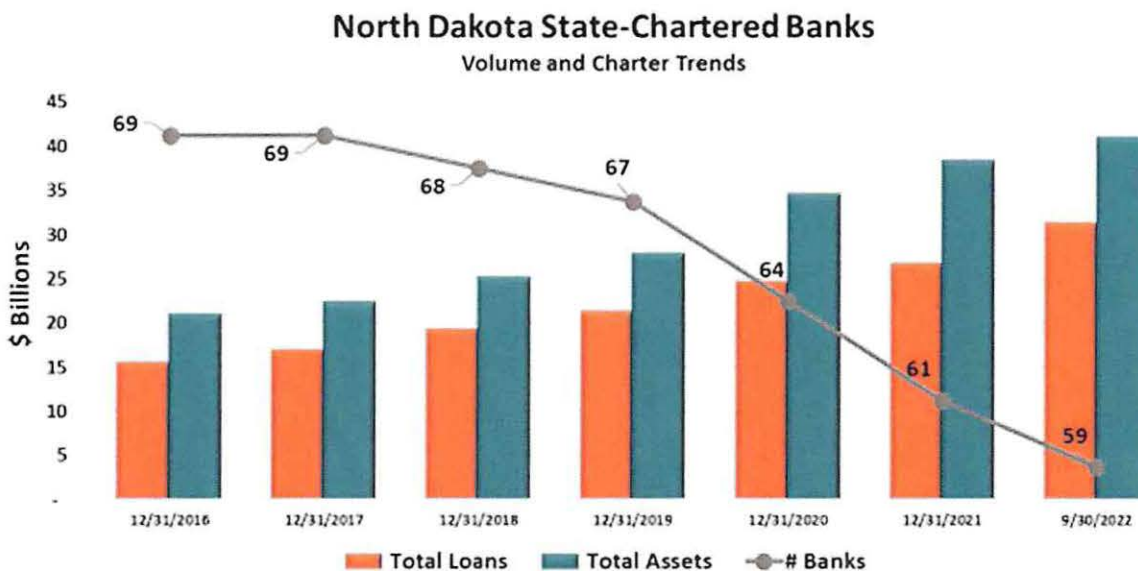
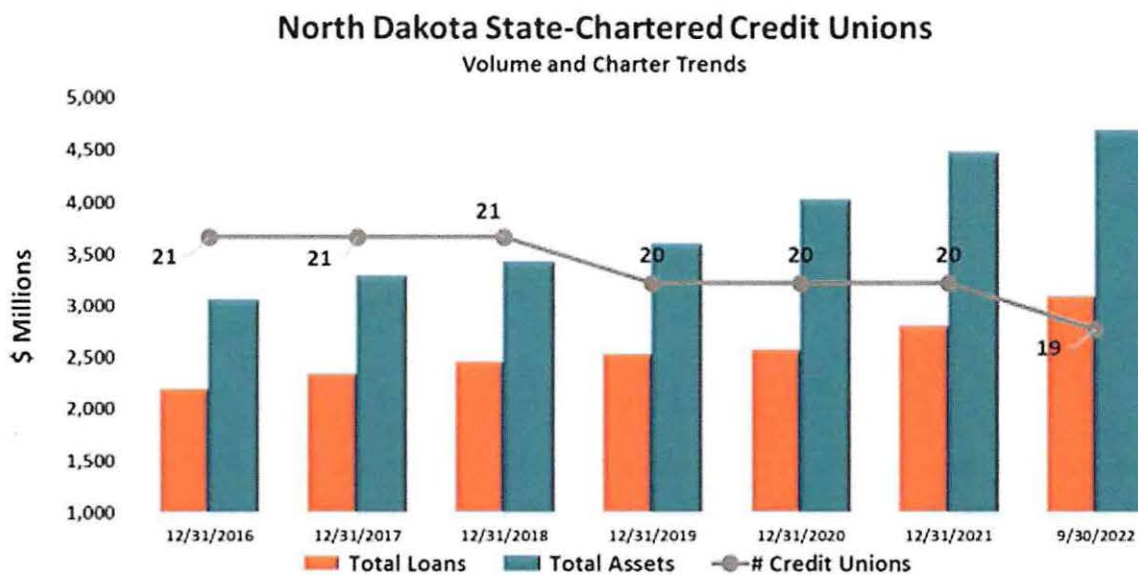
The Community Reinvestment Act (CRA) rules require banks to help meet the credit needs of the communities in which they do business, including low-and moderate-income neighborhoods. Credit unions are exempt from these rules presumably due to their intended membership by "common bond or occupation or association, or to groups within a well-defined neighborhood, community, or rural district". A 250-mile radius for membership does not fit that intent. The graphic below represents the effect to a central-North Dakota based credit union if this legislation passes.



Credit unions should not be allowed to have it both ways. They want to keep all the tax and regulation exemptions of the original intent but cast off any geographical limitations that provided for those exemptions.

Given this background, I now go back to my original question after reading the bill for the first time. What is this bill trying to solve? Has growth of credit unions been stymied by its field of membership rules in state code which were a result of bi-lateral compromise negotiations in a previous legislative session?

The data would indicate there have not been growth constraints on credit unions. Quite the opposite in fact. North Dakota Department of Financial Institutions, in their budget bill testimony, reported that the total assets of state-chartered credit unions grew by 18 percent from 12/31/2020 through 12/31/ 2022. By comparison, state-chartered banks grew total assets by 17 percent over the same period.



Source: North Dakota Department of Financial Institutions

Again, the graphs above me indicate that the total asset growth rate of financial institutions in North Dakota has been robust over the last two years and even slightly more robust by credit unions. While the number of state-chartered banks have declined by 10 since 2016, the number of state-chartered credit unions have declined by only two while credit union branches have grown by 14 locations to 111 across the state.

None of this data would indicate impediments to growth for credit unions in the state which brings me back to the original question – what is this bill trying to solve?

Chairman Larsen and members of the Senate Industry and Business Committee, ICBND sees no legitimate reason to pass this legislation and respectfully requests a “do not pass” on Senate Bill 2266. Thank you for your time and attention.

**Testimony of Rick Clayburgh**  
**North Dakota Bankers Association**  
**SB 2266**  
**January 31, 2023**

Chairman Larsen and members of the Senate Industry and Business Committee, for the record, I am Rick Clayburgh, President and CEO of the North Dakota Bankers Association (NDBA). I am here today on behalf of NDBA's sixty-three member banks to express our opposition to SB 2266.

In 2005, the Legislature passed SB2263, which was a joint effort by the North Dakota Bankers Association and the North Dakota Credit Union League to better define the field of membership for state chartered, community credit unions. The main purpose was to remove the ambiguity and provide clarity in the statute and administrative rules governing the field of membership. At the time, the credit union board faced a number of legal and administrative industry challenges to the board's interpretation of the statute.

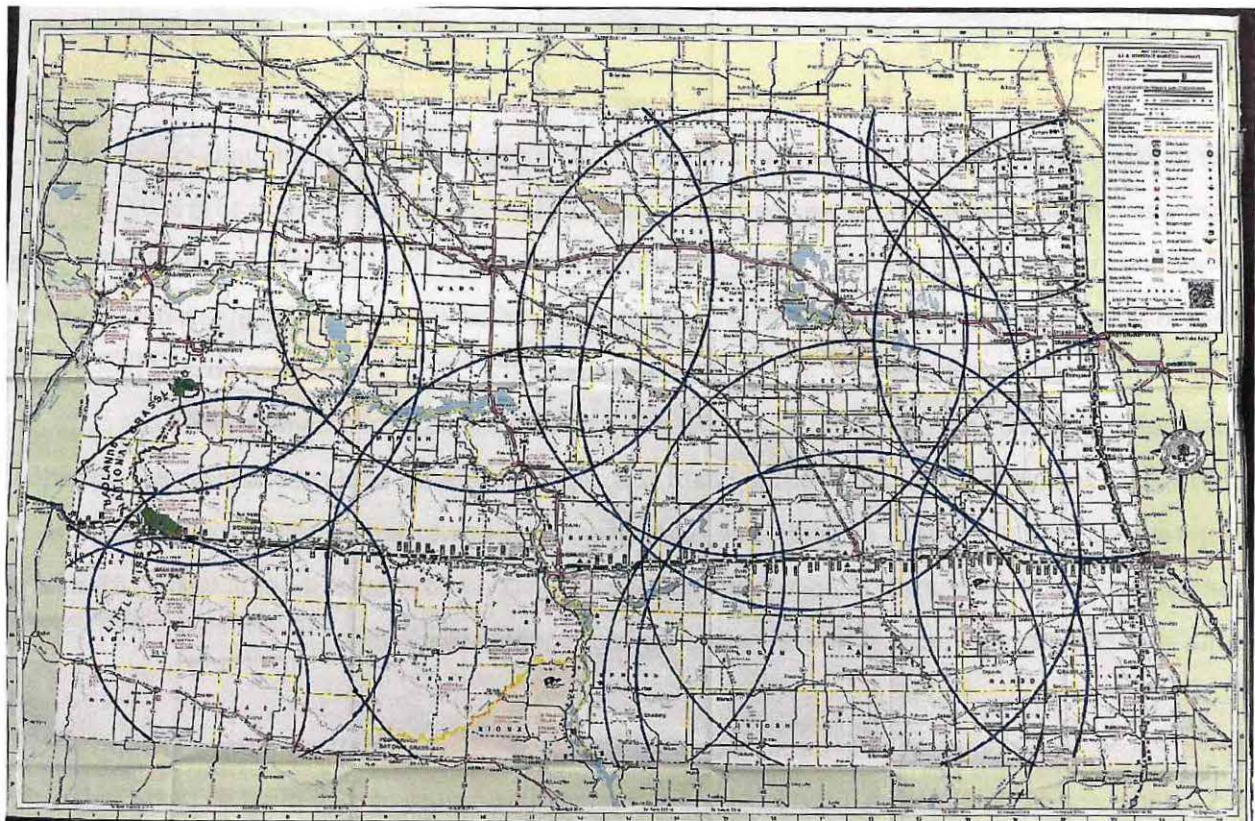
Prior to 2005, NDCC 6-06-07 provided that membership of a state chartered, community-based credit union was "limited to groups having a common bond of occupation or association or to groups within a well-defined rural or urban district." That was statutory language of limitation that had applied for years in North Dakota. During that time, the state credit union board administrative regulations defined a "well defined rural or urban district" as a 50-mile radius from the credit union's main office. Then the board policy changed and expanded that to a 75-mile radius. Although credit union board rules state otherwise, it appeared at the time that the board was approving branch applications that allowed "leapfrogging," and did, in fact, expand credit union geographic territories so they no longer bore any resemblance to a rural or urban district. The 2005 legislation codified the credit union board's 75-mile radius standard and clarified that branching was limited to within that radius.

States restrict field-of-membership because credit unions by law have a relatively narrow mission of serving low- and modest-income individuals and communities. Because of their mission, credit unions are not subject to the same level of regulatory oversight or taxation that community banks face. While some will try to argue that North Dakota has one of the strictest field-of-membership statutes in the nation, nothing could be further from the truth. Across the country, community-based credit union field



of membership is restricted by statute. 78% of states restrict field of membership around similar language focused on well-defined neighborhood, community, or rural district, which is much like North Dakota's old statutory language.

What public policy needs are served by SB 2266? We're not sure. Other than the credit union's lobbying efforts nationwide to water down field-of-membership requirements. We don't see any public benefit to uncontrolled state-wide field-of-membership expansion. Some have argued it's to address a "financial desert in North Dakota". No such desert exists. North Dakota citizens are already being served by the number and distribution of financial institutions throughout the state. In North Dakota, there are 19 State Chartered Credit Unions with 111 branches. In addition, there are 77 State and National Banks in ND with 392 branches in 175. More than 80% of North Dakota with populations greater than 100 people are served by a bank.

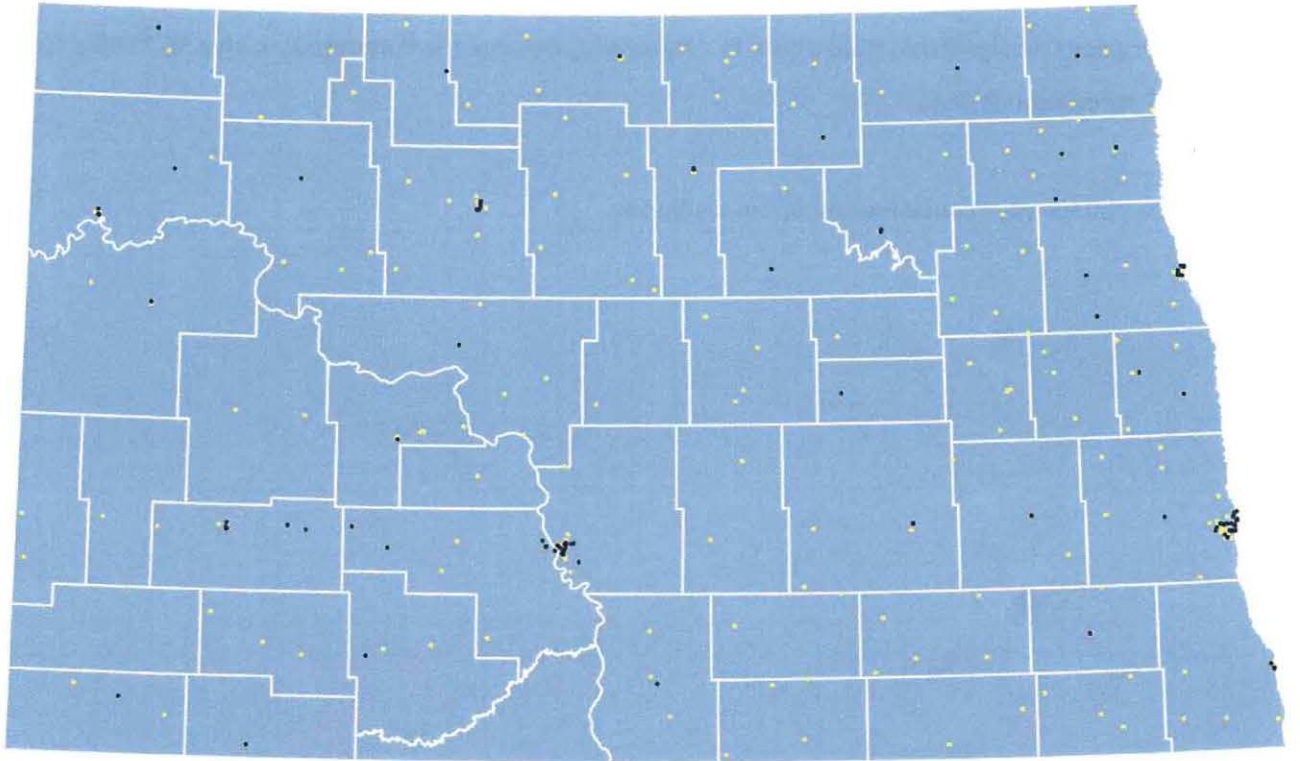


This map shows the area of state coverage the 75-mile FOM radius provides. Note – this is not inclusive of all community credit unions FOM or branches.



# North Dakota

## BRANCH LOCATIONS OF NORTH DAKOTA BANKS



Chartered By: ● Federal ● State

This map shows bank branches in North Dakota in 2020 – It does not include the main bank, just branches.

So, what does SB 2266 do? In simple terms, it would remove the clarity in North Dakota's field-of-membership statutes and create ambiguity again. This will open the credit union board to administrative and legal challenges once again. For example, how liberally will they define the term "working"? Could it be someone who works out of an area on an infrequent basis. Or more importantly, how will they interpret the incredibly complex provisions of subsection 4 of the bill? The NCUA's field-of-membership rules for federal credit unions consists of over 90 pages of regulation. We have been led to believe the most liberal interpretation would allow a North Dakota credit union to branch to the state border and then extend their field of membership 250 miles into an adjoining state.

How does this correlate with their limited mission of serving people of modest means in a well-defined rural or urban district?

Mr. Chairman and committee members, NDBA believes this bill removes important statutory restrictions and provides no significant public benefit. Therefore, we urge the committee to give SB 2266 a "Do Not Pass" recommendation.

Thank you for your consideration of my testimony.

**FOM by State**

**NASCUS State Regulators National Meeting  
March 2018**

**From a Matrix Compiled by Bruce Jolly (ReedandJolly)**

<b>State</b>		<b>Notes</b>
<b>Alabama</b>	<p><b><u>Ala.Code 1975 § 5-17-5 § 5-17-5. Membership.</u></b></p> <p>... Credit union membership shall consist of the incorporators and such other persons as may be elected to membership and who subscribe to at least one share and pay the initial installment thereon and the entrance fee. Organizations, incorporated or otherwise, composed for the most part of the same general group as the credit union membership may be members. Credit union organization shall be limited to groups, of both large and small membership, having a common bond of occupation or association or to groups within a well-defined neighborhood, community or rural district.</p>	
<b>Alaska</b>	<p><b><u>Sec. 06.45.070. Membership.</u></b></p> <p>Credit union membership consists of the incorporators and other persons and incorporated and unincorporated organizations, to the extent permitted by regulations adopted by the commissioner, elected to membership. Each member shall subscribe to at least one share of the stock of the credit union and pay the initial installment on the stock and a uniform entrance fee if required by the board of directors of the credit union. Credit union membership is limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district.</p>	
<b>Arizona</b>	<p><b><u>6-506. Organization procedure</u></b></p> <p>C. The incorporators shall prepare, adopt and execute bylaws consistent with this chapter for the general governance of the credit union. The bylaws, among other things, shall provide:</p> <ol style="list-style-type: none"> <li>1. The proposed field of membership which shall be limited to groups having a common bond of interest, occupation or association or to groups within a well-defined neighborhood, community or rural district consistent with the purposes of the credit union.</li> </ol>	
<b>California</b>	<p><b><u>14155.</u></b></p> <p>Upon reasonable notice and opportunity to be heard, the commissioner may deny the application for a certificate to act as a credit union or an expansion of the field of membership of an existing credit union for any of the following reasons:</p> <ol style="list-style-type: none"> <li>(a) The field of membership of the applicant is contrary to the principles of organizing credit unions, including principles of organizing credit unions based on common bond of occupation,</li> </ol>	



	association, or groups within a well-defined neighborhood, community or rural district.	
<b>Colorado</b>	<p><b>11-30-103. Membership</b></p> <p>(2) Credit union organization and membership, other than those of a central credit union, shall be limited to groups having a common bond of employment or association or groups which reside within a well-defined neighborhood, community, or rural district having a population of no more than twenty-five thousand or as otherwise authorized by the board. Small groups which the commissioner determines to lack the potential membership to organize their own credit union may be eligible for membership in an existing credit union if such small groups have a common bond of employment or association. A member of the immediate family of any person who, under the provisions of this article, is eligible for membership in a credit union may also be admitted to membership therein. "Immediate family" means persons related by blood, by marriage, or by adoption.</p>	
<b>Connecticut</b>	<p><b>Section 36a-438a - Field of membership.</b> Expansion. Change in field of membership.</p> <p>(a)(1) Except as provided in subdivision (2) of this subsection, the field of membership of a Connecticut credit union is limited to (A) a single common bond membership, (B) a multiple common bond membership, or (C) persons within a well-defined community, neighborhood or rural district.</p>	
<b>Florida</b>	<p><b>657.002 Definitions.</b></p> <p>—As used in this chapter:</p> <p>(9) "Limited field of membership" means the defined group of persons designated as eligible for membership in the credit union who:</p> <ul style="list-style-type: none"> <li>(a) Have a similar profession, occupation, or formal association with an identifiable purpose;</li> <li>(b) Live or work within an identifiable neighborhood, community, rural district, or county;</li> <li>(c) Are employed by a common employer; or</li> <li>(d) Are employed by the credit union; and members of the immediate family of persons within such group.</li> </ul>	
<b>Georgia</b>	<p><b>O.C.G.A. § 7-1-630</b></p> <p>§ 7-1-630. Initial subscribers; contents and filing of articles; other required filings; fee for investigation; selection of initial directors ... (b) For purposes of this article, "common bond" is described as that specific relationship of occupation, association, or interest; residence or employment within a well-defined neighborhood, community, or rural district; employees of a common employer; or members of a bona fide cooperative, educational, fraternal, professional, religious, rural, or similar organization which tends to create a mutual interest between persons sharing the relationship. Persons related by blood, adoption, or marriage to or living in the same household with a person within such common bond and the surviving spouses of deceased members shall also be considered within the common bond.</p>	



<p><b>Idaho</b></p>	<p><b><u>26-2110. MEMBERSHIP.</u></b></p> <p>... (b) Credit union organizations shall be limited to groups having a common bond of occupation or association, or to residents within a well-defined neighborhood, community, or rural district, employees of a common employer, or members of a bona fide fraternal, religious, cooperative, labor, rural, educational, or similar organization and members of the immediate family of such persons.</p>	
<p><b>Illinois</b></p>	<p><b>Sec. 1.1. Definitions.</b></p> <p><b>Common Bond</b> - The term "common bond" refers to groups of people who meet one of the following qualifications:</p> <p>(1) Persons belonging to a specific association, group or organization, such as a church, labor union, club or society and members of their immediate families which shall include any relative by blood or marriage or foster and adopted children.</p> <p>(2) Persons who reside in a reasonably compact and well defined neighborhood or community, and members of their immediate families which shall include any relative by blood or marriage or foster and adopted children.</p> <p>(3) Persons who have a common employer or who are members of an organized labor union or an organized occupational or professional group within a defined geographical area, and members of their immediate families which shall include any relative by blood or marriage or foster and adopted children.</p>	
<p><b>Indiana</b></p>	<p><b>IC 28-7-1-10 Membership</b></p> <p>Sec. 10. (a) The membership of credit unions shall be clearly and specifically identified. The membership of a credit union shall be limited to one (1) or more qualified groups of persons, immediate family members of the persons in the qualified group or groups, and organizations of those persons. For purposes of this section, a <u>qualified group</u> consists of:</p> <ol style="list-style-type: none"> <li>(1) persons having a common bond of occupation, trade, or professional association;</li> <li>(2) members of a labor organization;</li> <li>(3) members of a church;</li> <li>(4) persons engaged in a common trade or profession within a well defined geographical location;</li> <li>(5) employees of the credit union;</li> <li>(6) persons who are members of a farm bureau cooperative, or other farm bureau organization, and who have subscribed to one (1) or more shares; or</li> <li>(7) persons who reside or are employed within a <u>community</u>.</li> </ol> <p><b>PIC 28-7-1-0.5 Definitions</b></p> <p>Sec. 0.5. The following definitions apply throughout this chapter:</p> <ol style="list-style-type: none"> <li>(12) "Community" means: <ol style="list-style-type: none"> <li>(A) a second class city;</li> <li>(B) a third class city;</li> <li>(C) a town;</li> <li>(D) a county other than a county containing a consolidated city;</li> </ol> </li> </ol>	

	(E) a census tract; (F) a township; or (G) any other municipal corporation (as defined in IC 36-1-2-10).	
<b>Iowa</b>	<p><b><u>Chapter 533 - CREDIT UNIONS</u></b></p> <p>533.102 Definitions. As used in this chapter, unless the context otherwise requires:</p> <p>2. "Common bond" means the shared characteristic of members of a credit union.</p> <p><b>533.202 Common bond – membership – ownership share.</b></p> <p>1. a. State credit union organization shall be available to groups of individuals who have a common bond of association such as, but not limited to, occupation, common employer, or residence within specified geographic boundaries.</p> <p>b. Changes in the common bond may be made by the board of directors.</p>	
<b>Kansas</b>	<p><b><u>Article 22. - CREDIT UNIONS</u></b></p> <p><b>17-2205. Membership of credit union;</b> continuation of branch operations, limitations.</p> <p>(b) (1) Credit union organizations shall be limited to:</p> <p>(A) A group having a single common bond of occupation or association;</p> <p>(B) a group having multiple common bonds of occupation or association or any combination thereof. No such group shall have a membership of more than 3,000 except as permitted in subsections (c) or (d); or</p> <p>(C) persons residing, working or worshipping in or organizations located within a geographic area.</p>	
<b>Kentucky</b>	<p><b><u>286.6-107 Membership defined.</u></b></p> <p>... (2) Credit union membership shall be limited to persons having a common bond of similar occupation, association or interest.</p>	
<b>Louisiana</b>	<p><b><u>RS §645. Membership</u></b></p> <p>B. Credit unions shall be organized only within groups that have a common bond of residence within a well defined neighborhood, small community, or rural district, or occupation, or association, or any combination thereof. The minimum potential of one hundred persons shall be required in groups having a common bond of occupation, and a potential of two hundred families shall be required in other type groups. Employee groups with insufficient membership shall be eligible in a central type credit union with the approval of the commissioner....</p>	
<b>Maine</b>	<p><b><u>Title 9-B: FINANCIAL INSTITUTIONS</u></b></p> <p><b><u>§814. Membership requirements</u></b></p> <p>1. Field of membership. "Field of membership" of a credit union means those persons, including non-natural persons, having a common bond of occupation or association; multiple groups of such persons, each group having a common bond of occupation or association within that group; residence or employment within a well-defined neighborhood, community</p>	



	or rural district; employment by a common employer or by employers located within a well-defined industrial park or community; membership in a bona fide fraternal, religious, cooperative, labor, rural, educational or similar organization; and members of the immediate families of such persons.	
<b>Maryland</b>	<p><b><u>§ 6-301. Formation of credit union</u></b></p> <p>Organization defined</p> <p>(b) Seven or more adult individuals, each of whom is a resident of this State, may act as incorporators to form a credit union under this subtitle with one of the following field of membership types:</p> <ul style="list-style-type: none"> <li>(1) Single common bond;</li> <li>(2) Multiple common bond; or</li> <li>(3) Community common bond.</li> </ul>	
<b>Massachusetts</b>	<p><b><u>General Laws Part I Title XXII - Chapter 171</u></b></p> <p><b><u>Section 9.</u></b></p> <p>The shareholders of every such corporation shall make and adopt by-laws, consistent with law, for the government of its affairs. The by-laws shall provide for and determine:</p> <ul style="list-style-type: none"> <li>... (c) The condition of residence, occupation or association which qualify persons for membership.</li> </ul>	
<b>Michigan</b>	<p><b><u>490.352 Domestic credit union; membership; composition; field of membership; application; approval by commissioner; revision; extension.</u></b></p> <p>Sec. 352.</p> <p>(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:</p> <ul style="list-style-type: none"> <li>(a) One or more groups of any size that have a common bond of occupation, association, or religious affiliation.</li> <li>(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.</li> <li>(c) One or more groups whose common bond is common interests, activities, or objectives.</li> </ul> <p>(3) One or more credit unions may serve 1 or more groups described in subsection (2).</p>	
<b>Minnesota</b>	<p><b><u>52.05 MEMBERSHIP.</u></b></p> <p>§ Subdivision 1. Requirements. ... Credit union organizations shall be limited to persons within one or more groups or any combination of groups having a common bond of occupation, association, or community.</p>	
<b>Mississippi</b>	<p><b><u>§ 81-13-13. Membership</u></b></p> <p>... Credit unions shall be organized within groups which have a common bond of occupation, association, or residence; provided that one (1) corporate central credit union sponsored by the Mississippi Credit Union League may accept as members the credit unions that are members of the</p>	



	Mississippi Credit Union League and shall include in its title the words "corporate central"; ...	
<b>Missouri</b>	<p><b><u>370.080. Membership of credit union, membership shares not to be pledged as security for loans. —</u></b></p> <p>2. A credit union shall be composed of one or more groups of persons. The members of each such individual group must share:</p> <p>(1) A common occupation, association, employer or;</p> <p>(2) A geographic area which may include all those persons who reside or work in a city not within a county or a county, in which the main office of the credit union is located as reported on the National Credit Union Administration (NCUA) 2006 year-end 5300 call report, and counties contiguous to such areas as may be approved by the director. The director shall not allow a geographic area credit union to expand beyond counties contiguous to a city not within a county or a county in which its main office is located. The director shall not allow a credit union to expand its geographic area due to a relocation of the credit union's main office.</p>	
<b>Montana</b>	<p><b><u>32-3-304. Membership defined.</u></b></p> <p>(2) Credit union membership may include groups having a common bond of similar occupation, association, or interests or groups within a well-defined neighborhood, community, or rural district or employees of a common employer and members of the immediate family of such persons.</p>	
<b>Nebraska</b>	<p><b><u>Chapter 21 Section 1743 21-1743 Membership; requirements.</u></b></p> <p>... Credit union organization shall be limited to groups of both large and small membership having a common bond of occupation or association, including religious, social, or educational groups, employees of a common employer, or members of a fraternal, religious, labor, farm, or educational organization and the members of the immediate families of such persons.</p>	
<b>Nevada</b>	<p><b><u>NRS 678.510 Eligibility for membership.</u></b></p> <p>... 2. The common bond required for membership in credit unions organized under the provisions of this chapter may include, but are not limited to persons who:</p> <p>(a) Have a similar occupation, association or interest;</p> <p>(b) Reside within an identifiable neighborhood, community or rural district; or</p> <p>(c) Are employed by the same employer, and members of the immediate families of such persons.</p>	
<b>New Hampshire</b>	<p><b><u>Section 383-E:3-301</u></b></p> <p>Agreement; Bylaws. — ... The organizer shall prepare bylaws to govern the credit union. The bylaws shall prescribe the name of the corporation, the purposes for which it was formed, the conditions of residence, occupation, or association which qualify persons for membership, the par value of the paid-in shares, the number of directors, the number of members of the supervisory committee, and the number of members of the credit committee, if such committee is to be established, the duties of the several officers, ...</p>	



<p><b>New Jersey</b></p>	<p><b><u>New Jersey Statutes 17:13-92. Membership of credit union;</u></b> regulations.</p> <p>14. ... b. Except as otherwise provided in this section, credit union membership shall be limited to the types of membership described in one of the following categories :</p> <p>(1) one group which has a common bond of occupation or association; or</p> <p>(2) more than one group with each group having within that group a common bond of occupation or association and a membership of less than 3,000 members at the time that group is first included within the field of membership of a credit union made up of more than one group; or</p> <p>(3) persons or organizations, or any combination of organizations within a well-defined neighborhood, local community or rural district; or</p> <p>(4) any combination of membership fields from paragraphs (1), (2) and (3) of this subsection b., provided, however, that the combining of membership fields pursuant to this paragraph shall only be used with respect to an existing credit union and only if, in the determination of the commissioner, it is found that the combination is necessary to maintain the safety and soundness of that existing credit union and, with respect to any group eligible to be part of a credit union pursuant to paragraph (2) or organization eligible to be part of a credit union pursuant to paragraph (3) of this subsection which is to be combined, the membership of that group or organization shall be subject to the same limitation on the number of members as provided for groups under paragraph (2) of this subsection; and</p> <p>(5) members of the immediate family of persons in a credit union or in any group or organization which makes up the membership of a credit union.</p>	
<p><b>New Mexico</b></p>	<p><b><u>58-11-21. Membership.</u></b></p> <p>... B. Credit union membership may include persons within one or more groups having a common bond of similar occupation, association or interest, or persons who reside or belong to one or more groups that are based within an identifiable neighborhood, community or rural district, or employees of a common employer, or persons employed within a defined business district, industrial park or shopping center and members of the immediate family of such persons.</p>	
<p><b>New York</b></p>	<p><b><u>N.Y. Banking Law 451-A – Qualifications for Membership</u></b></p> <p>1. Subject to approval of the superintendent, the membership of a credit union shall consist of persons within the credit union's field of membership who have been duly admitted members.</p> <p>(a) Persons:</p> <p>(1) within the same occupation or from multiple groups each representing a different occupation;</p>	



	<p>(2) within the same association or from multiple groups each representing a different association;</p> <p>(3) who reside, work, worship or attend school within a well-defined identifiable neighborhood, community or rural district and who, in the judgment of the superintendent, have such a community of interest as will ensure proper administration. For purposes of this section a "well-defined identifiable neighborhood, community or rural district" may consist of one or more adjacent precincts, districts, cities or counties; or</p> <p>(4) within a combination of these three categories described in this subdivision; ....</p>	
<b>North Carolina</b>	<p><b><u>§ 54-109.26. "Membership" defined.</u></b></p> <p>... (b) Credit union membership may include groups having a common bond of similar occupation, association or interest, or groups who reside within an identifiable neighborhood, community, or rural district, or employees of a common employer, and members of the immediate family of such persons.</p>	
<b>North Dakota</b>	<p><b><u>6-06-07. Membership in credit union.</u></b></p> <p>... 2. Credit union membership is limited to groups having a common bond of occupation or association or to groups residing within a geographic area that does not extend beyond a seventy-five-mile [120.70-kilometer] radius of the home office of the credit union. Except as provided by this section, an office of a credit union that has a field of membership defined by geography may not be located more than seventy-five miles [120.70 kilometers] from the credit union main office.</p>	
<b>Ohio</b>	<p><b><u>1733.05 Membership.</u></b></p> <p>... (C) The membership of a credit union shall be limited to groups having a common bond of occupation or association or groups within a well-defined neighborhood, community, or rural district; however, except as otherwise provided in the articles or regulations, a person shall be deemed to retain affiliation with the credit union so long as he remains a member of the credit union even though no longer within the field of membership.</p>	
<b>Oklahoma</b>	<p><b><u>Section 2007 - Membership - Central Credit Unions</u></b></p> <p>A. ... Credit union membership shall be limited to groups having a common bond of occupation or association, which shall be limited to one of the following categories:</p> <ol style="list-style-type: none"> <li>1. Groups that have the same common bond of occupation or association;</li> <li>2. Persons or organizations within a well-defined community, neighborhood or rural district; or</li> <li>3. Groups which have, as to each individual group, a common bond of occupation or association, but, as to all such groups, need not have the same common bond of occupation or association as other groups within the credit union.</li> </ol>	



<p><b>Oregon</b></p>	<p><b><u>723.172 Credit union membership:</u></b> rules.</p> <p>... (3) Credit union membership may include:</p> <p>(a) One or more groups, each having a common bond of occupation or association; or</p> <p>(b) Persons who live or work in, or organizations located within, a well-defined local community, neighborhood or rural district.</p> <p>(4) Credit union membership may also include any of the immediate family of a person who is eligible for membership in the credit union under subsection (3) of this section. For the purposes of this subsection, "immediate family" includes an eligible member's foster parent or legally appointed guardian.</p>	
<p><b>Pennsylvania</b></p>	<p><b><u>§ 701. Membership.</u></b></p> <p>(a) General rule.--Credit union organizations shall be limited to groups having a potential membership of 500 or more adult persons and having a common bond of association within a well defined community or rural district by reason of occupation or of membership in a religious congregation or fraternal or labor organization or residence within a well-defined community or rural district.</p>	
<p><b>Rhode Island</b></p>	<p><b><u>Universal Citation: RI Gen L § 19-5-2</u></b></p> <p>– Fifteen (15) or more citizens of this state who have associated themselves by a written agreement to form a credit union may, with the consent of the director or the director's designee, become a corporation upon complying with the provisions of §§ 7-6-33 – 7-6-35....</p> <p>Universal Citation: RI Gen L § 19-5-3 (2013)</p> <p><b>§ 19-5-3 Membership of credit unions.</b> – After organization of any credit union has been completed, nothing in this chapter shall be construed to debar from membership any fraternal organization, voluntary association, partnership, or corporation.</p>	
<p><b>South Carolina</b></p>	<p><b><u>SECTION 34-26-500. Requirements of membership; eligible groups; requirement of board approval.</u></b></p> <p>... (2) Credit union membership may also consist of groups having different common bonds of occupation or association or persons employed within a defined business district, building, industrial park or shopping center, and members of the family of such persons who are related by either blood or marriage.</p>	
<p><b>Tennessee</b></p>	<p><b><u>§ 45-4-301 - Membership -- Qualifications -- Entrance fee.</u></b></p> <p>(a) The membership shall consist of incorporators and persons, societies, associations, copartnerships and corporations that have been duly elected to membership and have subscribed to one (1) or more shares and have paid for the same in whole or in part, with the entrance fee as required by the bylaws, and have complied with other requirements that the certificate of organization may contain; except that a credit union shall be limited to groups having a common bond of occupation or association or to groups within a well-defined neighborhood, community, or rural district.</p>	

<p><b>Texas</b></p>	<p><b><u>Sec. 122.051. MEMBERSHIP.</u></b></p> <p>(a) A person may be a member of a credit union only if the person is an incorporator or other person who:</p> <p>(1) shares a definable community of interest, in accordance with the credit union's articles of incorporation or bylaws, including a community of interest based on occupation, association, or residence; ....</p>	
<p><b>Utah</b></p>	<p><b><u>7-9-3. Definitions.</u></b></p> <p>As used in this chapter:</p> <p>(1)(a) "Association" means a group of persons that:</p> <ul style="list-style-type: none"> <li>(i) constitute the members of a formal association organized for: <ul style="list-style-type: none"> <li>(A) an identifiable interest;</li> <li>(B) an identifiable purpose;</li> <li>(C) a specific profession; or</li> <li>(D) a specific occupation; or</li> </ul> </li> <li>(ii) are employed by a common employer.</li> </ul> <p>(b) "Association" does not include a group of persons that is:</p> <ul style="list-style-type: none"> <li>(i) identified or created primarily on the basis of a relationship between any person and: <ul style="list-style-type: none"> <li>(A) a consumer;</li> <li>(B) a customer; or</li> <li>(C) a client; or</li> </ul> </li> <li>(ii) created primarily for the purpose of expanding the membership in a credit union.</li> </ul> <p><b><u>7-9-51. Field of membership.</u></b></p> <p>(1) Except as provided in Subsection (3) or (5), the field of membership of a credit union may include only the following:</p> <ul style="list-style-type: none"> <li>(a) the immediate family of a member of the credit union;</li> <li>(b) the employees of the credit union;</li> <li>(c) residents of a single county;</li> <li>(d) one or more associations; and</li> <li>(e) residents of a city of the third, fourth, or fifth class or a town as classified in Section 10-2-301 if: <ul style="list-style-type: none"> <li>(i) the city or town is located in a county of the fourth through sixth class as classified in Section 17-50-501;</li> <li>(ii) at the time the residents of the city or town are included in the field of membership of a credit union, the credit union has not become a nonexempt credit union under Section 7-9-55; and</li> <li>(iii) approved by the commissioner in accordance with Subsection 7-9-52(6).</li> </ul> </li> </ul>	
<p><b>Vermont</b></p>	<p><b><u>§ 31401. Field of membership</u></b></p> <p>(a)(1) Except as provided in subdivision (2) of this subsection, the field of membership of a credit union is limited to:</p> <ul style="list-style-type: none"> <li>(A) a single common bond membership;</li> <li>(B) a multiple common bond membership;</li> </ul>	



	(C) persons or organizations within one or more well-defined communities, neighborhoods, municipalities, or counties; or (D) any combination of subdivisions (A), (B), or (C).	
<b>Virginia</b>	<p><b>§ 6.2-1327. Membership defined:</b></p> <p>... B. Credit union membership shall be limited to persons within a specified field of membership, individuals within the immediate family or household of such persons, associations of such persons, other credit unions, and employees of the credit union. The field of membership specified shall be composed of one of the following:</p> <ol style="list-style-type: none"> <li>1. A single group having a common bond of occupation or association;</li> <li>2. More than one group, each of which has a common bond of occupation or association, and each of which does not exceed 3,000 members at the time it is proposed to be included in a multiple common-bond credit union. The 3,000-member limitation shall not apply if the Commission determines that an exception on the grounds provided in subsection (d) (2) or (d) (3) of § 101 of the Credit Union Membership Access Act (12 U.S.C. § 1759) is appropriate. In making any determination under this provision, the Commission shall give consideration to the National Credit Union Administration guidelines; or</li> <li>3. Those persons or organizations within a well-defined local community, neighborhood or rural district.</li> </ol>	
<b>Washington</b>	<p><b>RCW 31.12.382 Limitation on membership.</b></p> <p>(1) Membership in a credit union shall be limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district. The director may adopt rules: (a) Reasonably defining "common bond"; and (b) setting forth standards for the approval of charters.</p>	
<b>West Virginia</b>	<p><b>§31C-4-1. Membership defined.</b></p> <p>... (b) Credit union membership shall be limited to, persons within one or more groups having a common bond or bonds of similar occupation, employer, association or interest, and members of the immediate family of such persons.</p>	
<b>Wisconsin</b>	<p><b>186.02 Incorporation, bylaws, amendment, fees.</b></p> <p>... (2) BYLAWS. ... (b) Credit unions shall be open to:</p> <ol style="list-style-type: none"> <li>1. Groups having common or related bonds of occupation or association.</li> <li>2. Except as otherwise provided in this subdivision, individuals who reside or are employed within well-defined and contiguous neighborhoods and communities. If the office of credit unions, subsequent to a credit union merger, determines that it would be inappropriate under the circumstances to require members of the credit union that results from the merger to reside or be employed in contiguous neighborhoods and communities, the requirement that these neighborhoods and communities be contiguous does not apply.</li> <li>2m. Individuals who reside or are employed within well-defined and contiguous rural districts or multicounty regions.</li> </ol>	

	<p>3. Employees of related or vicinal industries.</p> <p>4. Members of bona fide fraternal, religious, cooperative, labor, rural, educational, or similar Organizations and employees of the credit union.</p> <p>(c) Members of the immediate family of all qualified persons are eligible for membership.</p> <p>(d) 1. An organization or association of individuals, the majority of the directors, owners, or members of which are eligible for membership, may be admitted to membership in the same manner and under the same conditions as individuals.</p> <p>2. An organization or association that has a business location within any geographic limits of the credit union's field of membership may be admitted to membership.</p> <p>(e) An individual member who ceases to qualify for membership under the bylaws may retain his or her full membership in the credit union at the discretion of the board of directors.</p> <p>(em) A public depositor who makes a public deposit in a credit union may become a member of the credit union if the bylaws permit membership of public depositors.</p>	
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-End-





Presented by: Sarah Getzlaff, CEO  
Security First Bank of North Dakota

Before: Senate Industry and Business Committee  
Senator Doug Larsen, Chairman

Date: January 31, 2023

Chairman Larsen and members of the IBL Committee, my name is Sarah Getzlaff. I am the Chief Executive Officer of Security First Bank of North Dakota with offices in Center, New Salem, Almont, Mandan and Bismarck. I am a 3<sup>rd</sup> generation community banker, born and raised in Center, ND following in the steps of my grandfather who lived in New Salem and my dad who has lived in each community I just mentioned. I live in Bismarck, drop my kids off at school in Bismarck and drive over to work in our Mandan office. As a North Dakotan, a local small business owner and a community banker, I strongly oppose Senate Bill 2266 and respectfully request a "Do Not Pass" recommendation from the Committee.

A little background – our bank is the only financial institution in all of Oliver County. Growing up in Center, the only town in Oliver County, I watched my dad support our community by donating his time to economic development boards, the housing authority, the 4H Premium Sale and many other local organizations. I saw the impact of the financial donations he directed to our school, to every church in town regardless of denomination and to almost every community event firsthand. I watched my dad meet with customers whenever and wherever they needed him. I clearly remember him leaving our house late one night to lend a customer cash out of his own wallet for a medical emergency. Just last summer, a friend of his complained about dancing in the dirt at the Oliver County Fair, so our bank donated a concrete dance floor. Stories like this were a constant part of my childhood and a tradition I am honored to continue. Stories like this happen daily at community banks all across North Dakota.

When you look at the services offered, there are very few modern-day differences between a bank and a credit union. We both offer deposit accounts, credit cards, consumer loans and business loans. Many credit unions even use the terms "banker" and "bank" in some of their every-day lingo. Historically, credit union members had to have a common-occupation or common-association to join. Over the years, credit unions have successfully lobbied to change their membership restrictions to simple and arbitrary geographic restrictions – significantly expanding their potential customer base. Today, the main difference between credit unions and banks – is that banks pay state and federal income taxes and credit unions do not.

Dakota Credit Union Association's "Welcome Back General Assembly" email stated they "keep money in their communities instead of shipping profits off to Wall Street" implying we North Dakota bankers ship our profits off to Wall Street, which is simply not true. This statement is misleading and does not apply to community banks. All but a handful of banks in North Dakota are community banks. Wells Fargo and US



Bank might be the only exceptions and their presence is diminishing. Our bank is a family-owned S Corporation with only a few shareholders – every one of us pay Federal and North Dakota state income taxes totaling at least a third, if not more, of our income. My bank's local ownership and payment of taxes to the Treasury and North Dakota's Tax Commissioner is not unique – there's the Beall family in Minot, the Streifel's in Powers Lake, the Marchell's in Grand Forks, the Pahlke's in Mandan, the Hoeven's in Minot, the Hoffner's in Beulah, the Stenjehem's in Watford City – these are just a few examples of local families who own community banks. Other local banks, such as Bravera Bank and Commercial Bank of Mott, are employee-owned, which means their profits stay in their communities as well.

Another historical distinction between banks and Credit Unions is the required mission for a credit union to serve people of low-to-modest means and provide services in underserved areas. Although our dedication to support low-to-modest means is not required by statute, it's every community bank's mission is to serve its community and we do so every day regardless of income levels. It's the North Dakota way and the right thing to do. While federal examiners have pushed for us to make credit decisions based on set criteria, we always have and always will push back for our customers and our communities. I recently approved a \$2,000 credit card for a ninety-year-old man without a credit score after another financial institution denied him, simply because he didn't have a credit score. We have made countless loans under \$500.00 to consumers so customers can pay their rent, buy their prescriptions or repair their vehicle – all without a loan fee and at a fair rate, regardless of credit score, simply because we know these people – they live in our communities and have strong character, just not the best financial situation.

Do banks make a profit? Absolutely. We need to make a profit to grow, to invest in and support the communities we serve, to increase our reserves for loan losses and like any other for-profit small business, for shareholder return. Like most industries, we have plenty of competition, between other community banks, online banks and credit unions, to keep pricing competitive. And, as a for-profit small business, we have an incentive to manage our expenses. With a 25-40% tax advantage, how do we really know if credit union returns are flowing through to members and not to increased salaries and unessential expenses?

While at first glance, increasing membership requirements from a 75 to a 250-mile radius seems like an arbitrary number, it is clearly meant to cover the entire state of North Dakota without simply stating membership will be open to anyone who lives or breathes in North Dakota. If this bill were to pass, credit unions will still offer the same services as North Dakota community bankers, but they still won't pay taxes. It's simply not fair. Can you imagine if Target had to pay taxes, but Walmart didn't? If Senators had to pay taxes, but House members didn't? Or, if certain dentists, farmers, home builders, teachers, or nurses had to pay taxes, while others providing the same exact same services didn't? It's simply not right.

Chairman Larsen and members of the Senate Industry and Business Committee, as a local, tax-paying North Dakota business owner, I respectfully request a "do not pass" on Senate Bill 2266.

Thank you for your time and attention.

Sarah Getzlaff, CEO  
Security First Bank of North Dakota

## **Testimony in Regard to Senate Bill No. 2266**

January 31, 2023

To: Chairman Larson and Members of the Senate Industry, Business and Labor Committee

Thank you for the opportunity to speak in favor of Senate Bill 2266 today. I am Bob Herrington President/CEO for North Star Community Credit Union. I am excited to finally see a bill introduced to modernize the State's field of membership (FOM) requirements. The current FOM requirements are some of the most restrictive in the nation and serve only to limit our ability to provide affordable financial solutions to more ND citizens.

North Star Community Credit Union (NSCCU) is a member owned financial cooperative that was first chartered in 1940 as Benson County Community Credit Union in Maddock, ND. We, like many credit unions started in the aftermath of The Great Depression. A time when the average American did not have access to affordable financial services. Traditional financial institutions were either not interested in serving the average American or were not trusted by the average American.

For the past 83 years North Star has served its membership and their communities by providing affordable loan, and deposit products. In 2022 we originated \$185MM in Agricultural, Small Business and Consumer loans. We have expanded to many ND communities of all sizes and continue to serve communities with populations as small as 69 people (Butte ND). Towns like Butte and Willow City would not have local financial services without North Star. In 2002 we established a branch in Bottineau ND and were granted a 50-mile FOM around that new branch. We would not be able to do that under current FOM requirements. Today that branch serves 3100 members and originated over \$16MM in consumer loans in 2022. Many of these are small balance loans that some financial institutions simply won't do. Who would serve those ND residents if we had not been allowed to expand in 2002?

I am not here today to convince you to join a credit union, although you really should. Whether or not a credit union is right for you is an individual decision. But I am here to ask you to advance the bill so that hopefully more people can make the decision for themselves.

This bill is about allowing State chartered credit unions like North Star to have more flexibility to serve the fine citizens of ND and offer more of them affordable financial services daily.

This bill is about allowing more ND citizens the option to choose from more financial services options.

This bill is about maintaining a strong State chartering system by closing the gap between the North Dakota requirements and those of federal credit unions regulated by the NCUA. Some have asked, "why not just convert to a federal charter?" North Star is proud of our State and its

chartering system. We believe that local governance is always better than federal governance. However, we also need the flexibility to expand and grow. Without modernization of the current FOM requirements, North Star and many other credit unions will have to strongly consider converting to a federal charter.

This bill is about competing on a more level playing field with banks and federally chartered credit unions. To those that oppose this bill based on the competition it creates I say:

- Serve your customers and a credit union won't have to.
- Invest in your communities and a credit union won't have to.
- Provide easy access to affordable financial services and a credit union won't have to.

Thank you for your time today. I respectfully request this committee vote do pass on SB 2266.

Respectfully,

Bob Herrington CEO  
North Star Community Credit Union



Committee Chair Doug Larsen and members of the committee,

I am Darla Schafer, Manager/CEO of Flasher Community Credit Union. I am here in support of SB 2266. Flasher Community Credit Union is a small credit union southwest of Bismarck/Mandan. We are the only credit union between Mandan and Lemmon, SD. We are an integral part of our community and have been serving our members since 1939.

I was one of the credit unions that testified against the last field of membership bill that was brought up in 2005. I guess I've been doing this for a long time. I was standing up for the small credit unions at that time as I have done throughout my career in the credit union industry. The bill that was brought at that time was not brought forth by the credit unions and what was brought forth only caused division among credit unions.

It is difficult for businesses to survive in small towns, as many of you may know. We are always competing with the bigger towns around us. Flasher is located near enough to Bismarck/Mandan that many businesses have closed over the years because we are only an hour from "uptown" where you can get almost anything. And now we are competing with the digital world that is found right on our phones.

We have found that being limited to a small geographic area is becoming more difficult to serve. Flasher used to have 500 people living in town when I was in school and now, we have around 220. I usually say 250 with the cats and dogs. When school is in session we double the population with 255 students K-12. We are supportive of everything in our community because it is essential for existence.

Flasher Community Credit Union strongly believes everyone should be able to own a house if they want to and we have financed many homes in Flasher and the surrounding communities because no one else will. We have helped numerous young families get started in a smaller home and then helped them move up to a larger home when one becomes available and as their families grow. We have also financed many mobile homes on farms as the younger, next generation moves back to begin farming. We have a lot of word-of-mouth advertising but have had to turn down several young couples because they were outside of our field of membership. Often, they don't get that chance at home ownership.

We also do ag lending, mainly with those farmers that are working a full or part time job and want to keep the family farm going. We have found that being limited to farms so close to one area increases our risk level when we have dry years like the last couple. If we could diversify farther away from a centralized area, we could mitigate the risk of dry years or limit our exposure to the housing market that may dip in one area but remain strong in another. Just losing a business in a small town can cause a large ripple effect throughout the community.

We would like to stay a state chartered credit union because we believe in keeping things local. We are proud of our community and our state. I don't think we would be here if we weren't. We have had a good working relationship with the Department of Financial Institutions. It does get frustrating at times when we have a field of membership issue. I think every small credit union has considered what expansion could be. Many of them have merged over the years and not all with state chartered credit unions. We are all striving to find ways to stay competitive with the financial industry that is changing around us. I am asking your support of SB 2266 to give consumers a choice in the changing financial landscape in North Dakota.

TESTIMONY OF  
MIKE SCHENK, DEPUTY CHIEF ADVOCACY OFFICER FOR POLICY  
ANALYSIS AND CHIEF ECONOMIST, CREDIT UNION NATIONAL  
ASSOCIATION  
BEFORE THE  
INDUSTRY BUSINESS AND LABOR COMMITTEE  
NORTH DAKOTA SENATE  
AT A HEARING FOR SB2266  
JANUARY 31, 2023

Testimony of  
Mike Schenk, Deputy Chief Advocacy Officer for Policy Analysis and Chief Economist, Credit Union  
National Association  
Before the  
Industry Business and Labor Committee  
North Dakota Senate  
At a Hearing for SB2266  
January 31, 2023

Chairman Larson and Members of the Senate IBL Committee:

My name is Mike Schenk and I am the Chief Economist for the Credit Union National Association (CUNA). CUNA is the largest trade association serving America's credit unions. CUNA membership stands at its highest level in over a decade with nearly 90% of the nation's 5,000 federal and state credit unions affiliated. On behalf of these credit unions and their more than 130 million members, thank you for the opportunity to testify on this extremely important topic.

#### Credit Unions are Different

Credit unions are **uniquely structured** - distinguished by a not-for-profit status – with earnings returned to members (i.e., to depositors) in the form of lower loan interest rates, higher savings yields and generally fewer and lower fees. Depositor-ownership is based on democratic principles – wherein each and every member has one vote in governance – whether they have \$1 or \$100 or \$10,000 or more in total deposits.

Throughout history, the structure has consistently produced significant pro-social outcomes – including both large financial and non-financial benefits that simply don't occur in the for-profit financial services arena: For-profit, stockholder-owned financial services firms focus on maximizing the value of stockholder investments. – and they have a fiduciary obligation to do so.

In contrast, their unique structure means that credit union managers have a singular focus on serving members. Without outside stockholders demanding a market rate of return on their investment they lack any incentive to mistreat their member-owners (evident in far fewer fines & settlements) and they take substantially less risk – resulting in far fewer financial disruptions and failures compared to the for-profit segment of the industry.

**Credit unions have a unique tax status which derives from their unique structure. That's important to note because some observers seem to think otherwise. To be clear: the credit union tax status has absolutely nothing to do with service offerings. Or asset size. Or growth rates. Or earnings. And it has absolutely nothing to do the breadth of membership fields.**

#### Field of Membership Modernization for North Dakota Credit Unions – SB2266 - Protects Financial Choice for North Dakotans and would Increase Safety and Soundness

North Dakota state chartered credit unions operate under one of the strictest Field of Membership (FOM) statutes in the nation, particularly in comparison to federally chartered credit unions. Currently, only those residing within 75 miles of a credit union's home office, or similar limited radius of a branch, can be a member of an "open charter" North Dakota state chartered credit union.

- In contrast, regulatory changes over the past forty years have allowed several thousand U.S. credit unions to expand membership fields and many have converted to community charters.



These changes increased and diversified credit union membership significantly - and much more broadly than what North Dakota law allows.

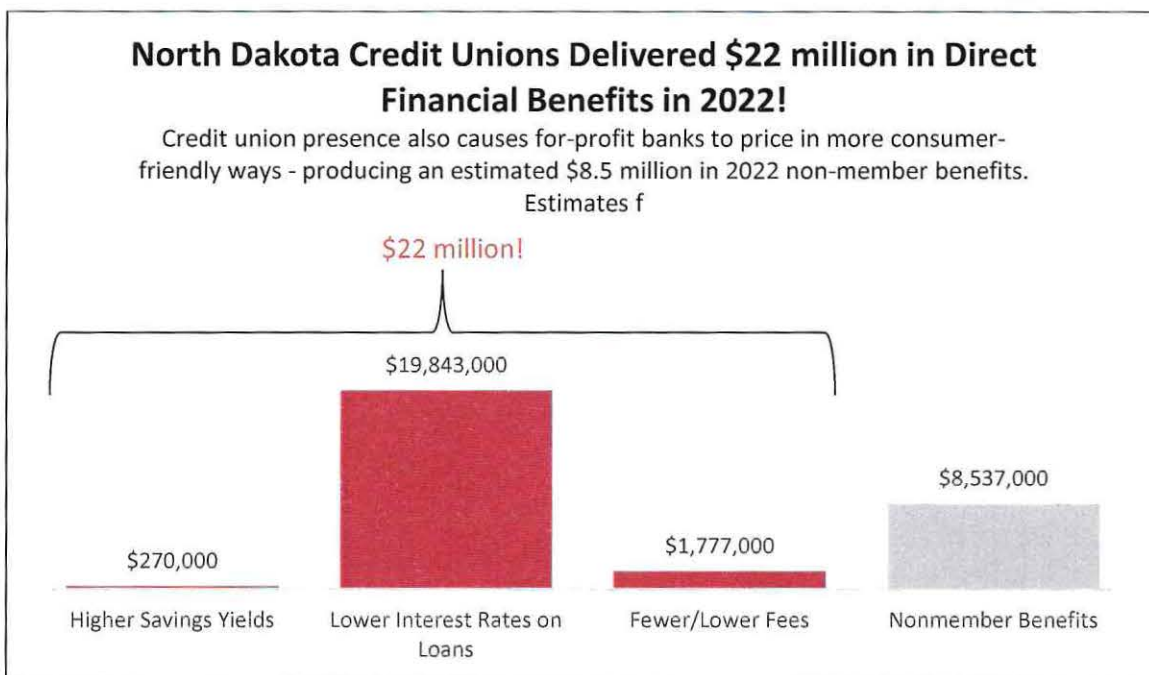
- Some say that these developments increase risk as the social capital of tight common bonds becomes diluted. But – on the contrary – rigorous academic research consistently shows that broadening credit union fields of membership improve safety and soundness by enabling credit unions to diversify their loan portfolios.
- This has been clearly outlined in academic literature, most recently, in a June 2022 Working paper titled “*The Effects of Membership Expansion on Credit Union Risk, Growth and Returns*”. Authored by Jordan van Rijn, – PhD, Associate Lecturer at the University of Wisconsin Madison in the Department of Agricultural and Applied Economics - the working paper improves on previous cross-sectional studies by utilizing a generalized difference-in-differences model with credit union and quarter fixed effects over 25 years (1994 to 2017). Put simply, rather than studying credit unions with wide fields of membership and those with narrower fields of membership at a point in time (as was the case in previous studies) van Rijn’s analysis statistically evaluates changes in operating outcomes over a long period of time – nearly 25 years.
- van Rijn’s more comprehensive analysis confirms the results of previous less rigorous studies, once again finding that – to use his words - “wider credit union fields of membership unambiguously improve credit union returns, reduce risk (as measured by the standard deviation of earnings and the probability of liquidation or merger) and have no effect on the probability of exhausting net worth.” Specifically, he finds that the annual probability of liquidation or merger is reduced by 10% overall. He notes that there is some evidence of an increase in delinquencies, but no effect on other indicators of asset quality: in other words delinquencies rise modestly on average but net.chargeoffs do not.
- He concludes: “These findings imply that the transformation of the U.S. credit union industry towards a greater proportion of community charters and expanded fields of membership is a positive development for the financial sector. In general, it appears to reduce risk and improve credit union returns, the latter of which can be used for better interest rates and more products and services for consumers. The reduced risk also puts less pressure on the credit union regulator to encourage mergers or to use insurance funds to deal with financially challenged institutions.” Given the trade-off between risk and returns, it is particularly noteworthy that both the earnings and risk profile of credit unions improve after conversion.

Credit Unions have no Stockholders so they Pass Earnings Directly Through to their Member-Depositors – Helping them Save Hundreds or Thousands of Dollars Annually. van Rijn’s Research shows these Financial Benefits can be Enhanced with Wider Membership Fields that Promote Financial Stability.

- In the year ending September 2022, U.S. credit unions delivered nearly \$14 billion in direct financial benefits to their members - arising from lower loan interest rates compared to banks, higher savings yields compared to banks and fewer/lower fees compared to banks. **North Dakota credit unions delivered nearly \$22 million in direct financial benefits in that 12-month period ending September.** A concrete example of the significant savings that accrues

can be seen in the auto lending arena: Based on recent Datatrac pricing survey data North Dakota consumers who choose to finance auto purchases at North Dakota credit unions save roughly \$1,900 over the life of their five-year car loans – a substantial savings for many average consumers – many of whom live paycheck-to-paycheck.

- Nationally, we estimate that bank customers also saved over \$5.5 billion in 2022 because their banks price in more consumer-friendly ways than they otherwise would when faced with credit union competition. In North Dakota, this indirect benefit totaled \$8.6 million in the year ending September 2022.
- These results are consistent over time: U.S. credit unions delivered over \$140 billion in financial benefits over the past fifteen years – and in North Dakota the total over that 15-year period is \$270 million.



Importantly, CUNA’s standard analysis of credit union member financial benefits is based on average pricing data provided by Datatrac – one of several national independent survey firms that tracks financial institution product pricing. These surveys focus on pricing (i.e, advertised interest rates) for “A” paper in the lending arena. CUNA has recently obtained the Equifax database and the information therein substantiates what we’ve seen in several academic papers. Specifically it confirms the comparisons and observations we’ve historically communicated – but also shows that credit union pricing is ***substantially more*** consumer-friendly for consumers with lower credit scores.

The data shows more favorable credit union loan pricing compared to banks – but (by far) the most significant differences are seen when comparing credit unions to auto finance company pricing (in the auto lending arena) and when comparing credit unions to mortgage brokers (in the mortgage arena).

For example, in the third quarter of 2022 near-prime borrowers (with credit scores between 620 and 659) reflected average financing rates of 5.40% at credit unions but 11.68% at auto finance companies on six-



year car loans – that difference saves credit union borrowers \$7,052 compared to what they would pay over the life of a six-year \$38,000 loan were they to use a finance company.

During the same period, deep subprime borrowers (with credit scores below 580) reflected average financing rates of 5.97% at credit unions but 20.09% at auto finance companies on six-year car loans – that difference saves credit union borrowers nearly \$17,000 compared to what they would pay over the life of a six-year, \$38,000 auto loan were they to borrow from an auto finance company.

#### North Dakota Credit Unions Serve Average Consumers

Wider fields of membership will mean that many of North Dakota's vulnerable consumers will have better access to safe, affordable credit. For example, we note:

- The most recent (2019) Federal Reserve Survey of Consumer Finances reveals that, nationally, the annual average income of primary bank customers (those that do all or most of their business with banks) is 27% higher than primary credit union customers. Primary bank customers report average net worth that is more than double primary credit union customers.
- The most recently-available HMDA data – which reflects lending and borrowing in 2021 - shows that compared to North Dakota credit unions, the state's banks were 1.4 times more likely to originate purchase money mortgages to high income consumers with 40% of total bank originations in this demographic group. Only 29% of North Dakota credit union originations were to high income borrowers. At the other end of the spectrum, HMDA origination data shows credit unions are 1.3 time more likely than banks in the state to originate purchase money mortgages to low/mod income consumers (i.e., those with incomes that are lower than 80% of area median).
- North Dakota credit union purchase money mortgage borrowers reflected an average income of \$96,059 while bank borrowers in the state had an average income that was 18% higher - \$113,095.
- Home Mortgage Disclosure Act data for 2021 purchase money mortgages in North Dakota reveals credit union loan size averaged \$210,328 while banks and mortgage brokers report average purchase money mortgage loan size that is 10% higher than the credit union norm – averaging roughly \$229,000.
- In the auto lending arena recent Equifax auto loan origination data tells a similar story. Contemporary data reveals that North Dakota banks are 1.3 times more likely to originate super-prime auto loans than are the state's credit unions. While North Dakota credit unions are over two times more likely than banks to originate auto loans to consumers with below prime credit scores.

#### Credit Union Members in North Dakota's Rural Communities would Likely Benefit Most from SB2266

Credit union members are clear about one thing: They believe that their not-for-profit, member-owned credit unions are their best financial partner and recognize that they advance the communities they serve in meaningful ways.

Recent CUNA research reveals credit union members reflect substantially greater financial resilience than consumers who do not use credit unions. Credit unions members are significantly more likely than nonmembers to use financial education and counseling services. Members are therefore both much more

likely to engage in behaviors that improve financial well-being AND to say that their financial institution has actually improved their financial well-being.

Credit union members who reside in rural communities are especially impressed with their credit unions.

CUNA’s 2022 National Voters Poll makes the beneficial effects of these outcomes abundantly clear. The Poll includes questions about financial institutions and their effectiveness in improving consumer financial wellbeing and in advancing the communities they serve. The online panel survey, conducted by FrederickPolls during January 2022 is based on a nationally representative sample of 2,500 voters (with a margin of error equal to + 2%). Questions center on financial behaviors and outcomes, trustworthiness, and connections to the local community.

In North Dakota these views are especially important. Survey results in rural areas are especially favorable for those who reside in rural areas. That’s critically important because both the CFPB’s recent study on financial issues facing rural communities and historical USDA research show rural areas are particularly stressed financially with the combination of relatively high poverty rates and financial access issues exacerbated by bank branch closures and banking deserts.

CUNA’s 2022 Voter Poll reflects these concerns: Over half (54%) of respondents who live in rural areas say that their local economic conditions are “somewhat” or “very” negative. In addition, nearly one-third (32%) say that their household’s overall income is lower today as compared to pre-Covid pandemic levels of 2019.

Rural residents are approximately 2.5 times more likely than those who live elsewhere to say that there is not enough access to banks and credit unions in their community.

Importantly, rural residents who are credit union members reflect substantially greater financial resilience than rural residents who do not use credit unions. The differences we find appears to arise from credit unions’ more consultative approach, more consumer-friendly pricing, thoughtful products and services and an overall sense of trust fostered by these institutions.

### Financial Well-being for All

CUNA 2022 National Voter Poll: Rural Consumers

	Rural CU Members	Rural Nonmembers	Difference
<b>Spending:</b> Makes it easy to manage my finances (% very positive)	60%	39%	21%
<b>Saving:</b> Does not have \$500 emergency savings (% without)	33%	49%	-16%
<b>Borrowing:</b> Ease of getting a loan (% very positive)	52%	18%	34%
<b>Borrowing:</b> Low-cost loans (% very positive)	52%	20%	32%
<b>Planning:</b> Have used personal financial ed/counseling service (% use)	28%	16%	12%
<b>Overall:</b> Cares about my FWB (% very positive)	50%	26%	24%
<b>Overall:</b> Has positively impacted my FWB (% very positive)	55%	27%	28%

### Trust, Service & Community Focus

	Rural CU Members	Rural Nonmembers	Difference
Can trust them (% very positive)	65%	39%	26%
Knows you (% very positive)	44%	33%	11%
Responsive customer service (% very positive)	67%	43%	24%
Provides technology to do remote banking (% very positive)	63%	45%	18%
Serves diverse customer base (% very positive)	61%	35%	26%
In touch with local community (% very positive)	56%	34%	22%
Cares about local community (% very positive)	59%	34%	25%

Specifically, we find:



- Rural residents who are credit union members are 1.8 times more likely than nonmembers to say they have received financial personalized financial education/counseling.
- Rural residents who do not use credit unions are nearly 1.5 times more likely than rural residents who are members to say that they have NOT established a financial buffer to meet unexpected expenses.
- Rural resident credit union members are over two times more likely than nonmembers to say they are “very positive” their financial institution has improved their financial well-being. As shown in the tables, polling results detail similar positive differences across ten other dimensions related to financial well-being including those related to trust, service provision and community focus. These results are consistent across all demographic groups examined – especially among those who live in rural areas.

### Banks Dominate in North Dakota and SB2266 Would Not Change That

Contrary to oft-repeated banker rhetoric North Dakota credit unions do NOT represent an existential threat to banks. Banks are growing quickly, reporting record profits and record stockholder dividends:

- Banking institutions have an overwhelming market dominance in North Dakota - reflected in an 90% market share of total financial institution deposits at mid-year 2022.
- North Dakota bank deposits have grown by \$10.1 billion in the past three years – 2.25 times MORE than North Dakota credit unions have grown since beginning operations in the state roughly 100 years ago.
- The state’s billion-dollar banks now control two-thirds of total financial institution deposits in the state – a market share that has increased by roughly 40 percentage points in the past 25 years.
- Out-of-state banks operating in North Dakota increased their market share by seven percentage points over that same 25-year period. They now control nearly one-quarter of all financial institution deposits in the state - an erosion of local control that results in capital outflows from the state.
- The two largest banking organizations operating in North Dakota – Watford City Bancshares and State Bankshares - report mid-year 2022 North Dakota deposits totaling \$7.6 billion – an amount that is 70% greater than the total deposits in all 32 North Dakota credit unions.
- North Dakota banks are growing quickly – reflected in average asset growth of 12% annually over the past five years.
- North Dakota banks collectively report very strong earnings: Annualized profits at North Dakota banks totaled \$623 million through September 2022– and hit consecutive all-time highs in 2020 and 2021. ROA (net income as a percentage of average assets) averaged 1.35% over the past decade.
- Bank stockholder dividends are soaring – with banks headquartered in North Dakota reporting a record total of \$419 million in total dividend payments in 2021.
- On the margin, the modest changes reflected in SB2266 would have little effect on bank growth or profitability but could help more average North Dakotans increase financial resilience.

### A Note on Credit Unions & Taxation

Some say credit unions pay no taxes. That’s patently false. Credit unions and their member-owners pay a wide variety of taxes annually and the total payments are large and growing. These taxes include FICA taxes, excise taxes, license fees, sales taxes, property taxes and severance taxes.

- According to CUNA's IMPLAN Impact analysis for 2021, North Dakota credit unions account for \$14.3 million in direct federal tax payments and account for a total of \$25.0 million in direct and indirect federal tax revenue.
- In addition, IMPLAN analysis shows North Dakota credit unions accounted for roughly \$8.5 million in direct state & local tax payments and a similar total in direct and indirect state & local taxes revenue.
- In other words, North Dakota credit unions accounted for a TOTAL of \$23 million in direct tax payments in 2021 and a TOTAL of over \$33 million in direct and indirect tax payments in the year.
- The 214,00 average consumers who choose to be credit union member-owners in North Dakota collectively account for billions of taxes annually. Indeed, CUNA conservatively estimates credit union members in North Dakota paid \$3.3 billion in state and federal income taxes in the most recent tax year.
- Against this backdrop, it is interesting to note that the 2017 federal income tax reform bestowed big, permanent tax benefits to banks – both nationally and in the state of North Dakota. The tax reductions from those reforms greatly exceed the value of the credit union tax expenditure. In addition, thousands of banks nationally (and dozens in North Dakota) enjoy SubChapter S status – which reduces tax obligations substantially.

#### Conclusion

On behalf of CUNA, thank you for the opportunity to speak to you today. I'd be happy to address any questions you may have.

Mike Schenk, Deputy Chief Advocacy Officer for Policy Analysis and Chief Economist

**TESTIMONY IN REGARD TO SENATE BILL NO. 2266**

January 30, 2023

**To: *Committee Chairman Doug Larsen and members of the committee***

**From: *Jeff Olson, President/CEO Dakota Credit Union Association***

The Dakota Credit Union Association (DakCU) represents 66 credit unions in North and South Dakota and over half a million credit union members. I am submitting this written testimony on behalf of our 18 state chartered credit unions and our 214,000 credit union members in North Dakota.

North Dakota state chartered credit unions are operating under a strict Field of Membership (FOM) statute, particularly in comparison to how federally chartered credit unions can operate. Since “open charter”<sup>1</sup> credit unions can only serve consumers who live within their FOM, our North Dakota credit unions are at a disadvantage, and many North Dakotans are being left behind or have limited options for locally owned and controlled financial services.

North Dakota has a dual charter system. We have 18 state chartered credit unions that follow North Dakota Century Code as it pertains to credit union powers and under the oversight of the North Dakota Department of Financial Institutions (DFI). Our 13 federally chartered credit unions operate under the Federal Credit Union Act which is administered by the National Credit Union Administration (NCUA). Both ND state chartered credit unions and Federally chartered credit unions are insured by the NCUA.

In 2005 there was an amendment passed that significantly impacted ND credit unions and amended NDCC 6-06-07. The current FOM statute reflects this 2005 amendment and provides: ***“Credit union membership is limited to groups having a common bond of occupation or association or to groups residing within a geographic area that does not extend beyond a seventy-five mile radius of the home office of the credit union. Except as provided by this***

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<sup>1</sup> “Open charter” means a credit union charter issued to serve groups within a geographical boundary. North Dakota Administrative Code 13-03-14-01 (5).



*section, an office of a credit union that has a field of membership defined by geography may not be located more than seventy-five miles from the credit union main office.”*

The amendment continues, *“After December 31, 2004, a credit union may not establish and operate a new branch office that is outside the credit union’s field of membership. A branch office may not expand the geographic field of membership of a credit union.”*

The bill that came out the 59<sup>th</sup> Legislative Assembly was SB 2263. It was introduced by Senator Espegard, a retired bank president from Grand Forks. This bill was passed with very little input from the North Dakota credit union industry and contrary to what you have been told, it was not cooperatively negotiated or collaboratively agreed upon. In fact, a number of North Dakota credit unions spoke out in opposition to this bill in 2005. The final amendment was more of a “compromised surrender.” It deeply divided our movement, and it took years to heal and bring all our credit unions back into our collaborative system. The bill clearly was meant to curb credit union growth and expansion in the state.

Under HB 2263, as reflected in the current statute, the only way for North Dakota open charter credit unions to expand beyond the 75 mile radius is to merge with another credit union. *“In the event of a merger between credit unions with different geographic fields of membership, the surviving credit union may expand the field of membership to include the geographic field of membership of the merged credit union.”*

There were 55 credit unions operating in the state in 2005, of which 35 were state chartered credit unions. Within three years (2006 to 2009) following the passage of this amendment, 6 state chartered credit unions were absorbed or merged into larger credit unions, all before the financial crisis hit. Today, we have half the number (18) state chartered credit unions operating in our state.

Instead of promoting a cooperative industry, the current statute threatens small credit unions in addition to leaving some areas of North Dakota underserved by a credit union unless a federal credit union expands. At the same time, as federal community charter or “open charter” credit unions are allowed to serve Combined Statistical Areas (CSA) of up to 2.5 million people or up to one million people in rural districts, a federally chartered credit union in North Dakota (or one

from another state) could expand their FOM to include the entire state. While SB 2266 would not prevent this, it would put our North Dakota state chartered credit unions in a better position to survive.

NCUA continually makes updates to its FOM rule to modernize and facilitate consumer access to credit unions and enhance their delivery of services. One of the recent changes to FOM included amendments in 2016 to address the lack of financial access which was especially prevalent in rural communities due to the withdrawal of financial institutions over the last decade.

So, why don't North Dakota credit unions just convert to a federal charter then? That's a fair question, and I ask you to refer to the two addendums I have attached in support of my testimony.

The first attachment is a copy of comments made by NCUA Board Chair Todd Harper to North Dakota credit unions during a virtual call on September 14<sup>th</sup>, 2021. Please refer to the highlighted bullet points:

- ***To protect the Fund, we (NCUA) are actively monitoring certain segments of the system, including credit unions closely connected to the oil and gas industry and the agricultural sectors, among others.***
- ***We are also focusing on credit unions with elevated risks, such as those with large concentrations of commercial real estate loans relative to assets.***

The second attachment is a draft of the agency's four-year strategic plan, see page 12, under Climate Related Financial Risks, and note their mention of the need for FOM expansion, something that isn't possible under current state laws:

- ***Changing weather patterns will disproportionately affect farming communities. Over time, climate change will likely affect the value of collateral, including homes and vehicles. To remain resilient credit unions may, need to consider adjustments to their fields of membership as well as the types of loan products they offer. Efforts to combat climate change will likely give rise to new regulations, potentially increasing costs for credit unions as they adapt and respond.***

A clear advantage of a state charter is having a local regulator that understands our state's rural economy and market trends. Because of the prompt reaction of our DFI Commissioner, North

Dakota credit unions were able to engage Governor Burgum, Agriculture Commissioner Goehring, and our federal representatives, to convince the NCUA to revise their climate related risk statement altogether to avoid harsh exam oversight and additional scrutiny on agricultural lending, leading to clarification on their original strategic plan:

- ***The agency does not intend to micromanage credit union lending decisions for climate financial risk, including lending to family farms and others in the agricultural sector as well as businesses tied to the fossil fuel industry. The NCUA Board underscores that nothing in this Strategic Plan should be construed as discouraging activities related to agriculture or fossil fuels.***

Clearly, preserving the state charter keeps oversight local, from the policy making process of the North Dakota legislative assembly to the safety and soundness oversight by ND DFI, and the administrative rule procedures adopted by the State Credit Union Board.

SB 2266 would amend NDCC 6-06-07, Membership in a credit union, to ensure that North Dakota state chartered credit unions have similarity to federally chartered credit unions by allowing an individual to join an “open charter” credit union if they work or attend school in the geographic FOM, instead of being limited to “residing” as is the current statute. We are also asking the legislature to approve an increase in the FOM radius. Currently, state “open” chartered credit unions are limited to 75 mile radius from the home office; under SB 2266 state chartered credit unions could apply for an expansion up to 250 mile radius of any office of the credit union, allowing our more rural credit unions to expand and diversify their FOM to address safety and soundness issues.

We are preserving section 3 of NDCC 6-06-07 which allows a process for interested parties, including banks and credit unions, to submit comments, views or arguments concerning a FOM expansion application.

We are adding section 4 so that any state chartered credit union can apply for the same Field of Membership allowed to a federally chartered credit union, subject to authorization by the state credit union board. Our intent is to protect our North Dakota credits and allow them to keep pace with any large federally chartered credit unions that expand into our marketplace.



We are also bringing an amendment today to clarify potential interpretation issues. As already noted above, our intent is for an “open charter” credit union to be able to apply for a FOM expansion to their geographic area that does not extend beyond 250 mile radius of a credit union office. The first revision is to clarify that this could be either the home or branch office. The next revision corrects an error as “geographic” on page 2 line 2 should have been originally struck out, providing that in the event of a merger between credit unions with different fields of membership, the surviving credit union may expand the FOM to include the FOM of the merged credit union. This impacts “closed charter”<sup>2</sup> credit unions as well as “open charter” credit unions in the event of mergers. Finally, the amendment clarifies that a branch office may expand the geographic FOM of a credit union.

Most importantly, SB 2266 will preserve and expand financial service choice for all North Dakotans. Our state’s credit unions and our 214,000 members deserve an operating environment that is fair, modern, and able to compete with other financial service providers, especially at a time when many regional banks have shifted to less agricultural related lending.

Let’s protect our North Dakota credit unions and financial choice for all North Dakotans. I humbly ask for the committee’s do pass recommendation on SB 2266.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeff Olson". The signature is written in a cursive, flowing style.

Jeff Olson

DakCU President/CEO

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<sup>2</sup> "Closed charter" means a credit union charter issued to serve groups having a common bond of occupation or association. North Dakota Administrative Code 13-03-14-01 (2).



## Dakota Credit Union Association's Virtual Hike the Hill

The Honorable Todd M. Harper  
Chairman, National Credit Union Administration (NCUA)  
Tuesday, September 14, 2021  
10:15 AM to 10:45 AM Eastern

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- I hope that all of you, your families, and your credit unions have safely emerged from what has been a truly extraordinary 18 months.
- Despite many challenges, credit unions have pressed forward, doing their part to support their members and the communities they serve.
- But I must caution everyone that we are not out of the woods just yet.

### **The Economic Outlook**

- Over the last few months, the near-term economic outlook has improved, and the credit union industry as a whole remains relatively strong.
- Despite the improving outlook, credit unions may still face a difficult environment in the months ahead.
- As supplemental unemployment benefits, forbearance programs, eviction moratoriums and other COVID-related relief efforts end – and, in fact, some of these things recently expired – many households will experience financial stress, especially those low-income households and communities of color that were acutely affected by the pandemic and recession.
- With many households likely to experience financial stress in the months ahead, I urge all of you to continue working with your members in need.
- To support your efforts, the NCUA has instructed its examiners to refrain from criticizing your efforts to provide prudent relief to members, when conducted in a reasonable manner with proper controls and management oversight.
- Additionally, targeted relief measures, like our recently finalized capitalization of interest rule, give you additional tools to assist your members.

### **The NCUA's Response to COVID-19**

- The top priority for the NCUA Board has been, and continues to be, ensuring the credit union system and the Share Insurance Fund are prepared to weather any economic fallout related to the pandemic.
- To protect the Fund, we are actively monitoring certain segments of the system, including credit unions closely connected to the oil and gas industry and the agricultural sectors, among others.
- We are also focusing on credit unions with elevated risks, such as those with large concentrations of commercial real estate loans relative to assets.
- And, as the pandemic evolves, the NCUA will continue to adjust its supervision and examination program to address potential risks to the Share Insurance Fund and the broader system.

### **Consumer Financial Protection**

- Equally vital to credit union members is consumer financial protection and fair and equitable access to credit.





union system assets and 7 percent of credit union system membership. By 2021, credit unions with less than \$50 million in assets represented 52 percent of all credit unions and accounted for only 2 percent of all credit union system assets and only 4 percent of credit union system membership.

If these long-running consolidation trends continue, there will be fewer credit unions in operation in 2026 and those that remain will be considerably larger and more complex. In the first quarter of 2021, there were 677 federally insured credit unions with assets of at least \$500 million, 37 percent more than five years earlier. These 677 credit unions represented just 13 percent of all credit unions but accounted for 78 percent of credit union system membership and 83 percent of credit union system assets. Large credit unions tend to offer more complex products, services, and investments. Increasingly complex institutions will pose management challenges for the institutions themselves as well as the NCUA, as the risks posed by individual, large institutions become more significant to the Share Insurance Fund.

## Climate-Related Financial Risks

Climate change is accelerating and the number – and cost – of climate-related natural disasters is rising. The economic effects of these events are clear. Each year, natural disasters like hurricanes, wildfires, droughts, and floods impose a substantial financial toll on households and businesses alike. The physical effects of climate change along with efforts to address climate change and transition to a low-carbon economy pose significant risks to the U.S. economy and the U.S. financial system.

Credit unions need to consider climate-related financial risks and how they could affect their membership and institutional performance. For instance, a credit union's field of membership is often tied to a particular industry or community. Some industries, like the energy and auto industries, may be disproportionately affected by climate change and the transition away from fossil fuels towards renewable forms of energy. Changing weather patterns will disproportionately affect farming communities. Over time, climate change will likely affect the value of collateral, including homes and vehicles. To remain resilient credit unions may need to consider adjustments to their fields of membership as well as the types of loan products they offer. Efforts to combat climate change will likely give rise to new regulations, potentially increasing costs for credit unions as they adapt and respond.

Climate change presents several complex conceptual and practical challenges not only for credit unions but also for the NCUA. The agency will need to adapt its risk monitoring framework to account for climate-related threats to financial stability, the credit union system, and the Share Insurance Fund.

## Challenges in Critical Lending Markets

**PROPOSED AMENDMENT TO SB 2266**

Page 1, line 18, after "of" insert "a"

Page 1, line 18, remove overstrike on "home"

Page 1, line 18, after "home" insert "or branch"

Page 1, line 18, remove overstrike on "office of"

Page 2, line 2, strike "geographic"

Page 2, line 4, remove overstrike on "A branch"

Page 2, line 5, remove overstrike on "office may"

Page 2, line 5, remove overstrike on "expand the geographic field of membership of a credit union"



### **Senator Erbele's Introduction and Comments - SB 2266**

I was asked by the ND state chartered credit unions to sponsor SB 2266.

To highlight a few of the proposed changes, SB 2266 would amend North Dakota Century Code at 6-06-07, Membership in credit union. This bill seeks to revise subsection 2 to clarify that a credit union can be made up of one or more groups having a common bond of occupation or association, or groups in a geographic area.

SB 2266 would allow individuals working or attending school within the geographic Field Of Membership (FOM) to join the credit union, in addition to the existing provision of "residing."

Currently, state chartered credit unions are limited to a 75 mile radius from the home office. Under SB 2266, state chartered credit unions would be able to apply for an expansion up to 250 mile radius of any office of the credit union.

#### **Point #1**

Today, North Dakota state chartered credit unions are disadvantaged in comparison to how federally chartered credit unions can operate. If North Dakota Credit Unions converted to federally chartered institutions, they could expand their Field of Membership to include the whole state.

#### **Point #2**

North Dakota credit unions want to preserve the State-Charter system and maintain local oversight from the North Dakota Department of Financial Institutions.

#### **Point #3**

As noted above, SB 2266 would expand the radius to allow credit unions to serve more rural communities and banking deserts. To remain viable, stabilize their asset base and diversify their loan portfolio, small credit unions need to be able to expand their FOM. Rural credit unions operating in dwindling population centers need to be able expand for safety and soundness.

#### **Point #4**

Expanding the Field of Membership for North Dakota state chartered credit unions to include individuals that work or attend school in the geographic area, in addition to residing, will allow the credit union to have similarity with federally chartered credit unions. More importantly, more North Dakotans will have financial service options to choose from, especially in our rural underserved communities.

**Please note** – this bill creates the pathway for FOM expansion; individual credit unions would still need to apply for FOM expansion to the ND State Credit Union Board and such application would be open for comment from other financial institutions, including banks and other credit unions. The criteria for being granted an expanded FOM is addressed in state administrative rules.

Jeff Olson from the Dakota Credit Union will provide some more background and specifics on why this modernization of our credit union statute is necessary.

- History of Town & Country Credit Union
  - Chartered in 1939 during the great depression
  - The issue was banks were not lending to farmers as the times were that bad.
  - So area farmers in ward county pooled their money and resources together, started a credit union and began lending to other farms
  - We were chartered to do agricultural/business loans when banks would not extend capital
  - This is a story we are proud of still today and it is important story of how we were chartered. Our credit union is still providing these same services
  - For Credit Unions in ND to expand we are forced by statute to Merge.
  - Town and Country Credit Union has since expanded into Kenmare/Fargo Market, unfortunately due to the current statute we had to merge with credit unions in these markets. In the process eliminating CUs rather than adding competition.
  
- Safety and Soundness Issues – by Limiting CU ability to expand in itself poses a safety and soundness concern
  - An agricultural CU that operates a small area in the center of the state may be exposed to drought, hail, which jeopardizes crops or snow storms that jeopardizes livestock. These credit unions are at risk of experiencing losses and experiencing poor credit quality. However if this CU had branches elsewhere in another area of the state, this would eliminate risk in the portfolio by having assets/loans being diversified geographically
  - The same can be said about a consumer based credit union in western ND where a strong economic presence is energy. The Energy sector employs many people in that industry. That industry can be volatile. Should the energy sector contract, peoples employment is at risk, the institutions consumer loans are at risk. However if they were diversified in other areas of the state, they could offset this risk.
  - Many banks in Western ND have branched out across the state, however credit unions by statute cannot.
  - Limiting CU's Field of Membership is a safety and soundness concern as we cannot diversify our loans/assets to other areas.
  
- Taxation
  - Yes CUs are not taxed, however a majority of ND Banks have tax loophole of their own
  - Majority of bank in ND file Subchapter S – they do not pay corporate income tax.
  - Their owners who profit from the bank pay tax individually on earnings from the bank.
  - CUs in ND have no problem with them filing this way or paying taxes this way we support their S-corp status
  
  - What do we do with our tax savings, give it right back to our owners who are our members. How do we give it back to them, via higher deposit rates or lower loan rates.
  - On the DFI's website they have financial performance of state chartered CU's and Banks
  - I looked up the net interest margin difference between banks and CUs. The difference happens to be 76bp. CU's are paying ¾% higher on deposits or ¾% lower on loan rates to farmers, consumer, and businesses. We pay it back to our members. Very similar to farm credit services Pat-Now program.

- Other Coops, Do we restrict other Coops in the state?
  - No, State statute does not restrict other Cooperatives from expanding across the state
    - Farm Credit Services is a coop very similar to CU's, we lend to farmers, they lend to farmers; the state does not restrict their growth.
    - Local Grain Elevators – do we stop grain elevators from expanding
    - Gas Stations, Electrical Coops, telephone Coops; the list goes on
    - We support all of these cooperatives continued growth
  
- State Charter VS Federal Charter
  - Yes we could flip to a federal charter but why would the state want us to.
  - In North Dakota and throughout the Midwest we believe in State rights.
  - We believe that the state, not the federal government has the right to regulate commerce.
  - Why would we want to turn the power over to Federal government to write rules and regulations on how to lend in North Dakota.
  - Credit Unions in ND like working with our local Department of Financial Institutions.
  - They understand agriculture and energy.
  - Recently our insurer NCUA came out with a strategic plan that included Climate change initiatives to farmers and ESG on energy. They were discouraging borrowing to these two industries.
  - We immediately snapped into action calling on DFI, AG Commissioner, and the governor. Collaboratively between us we were able to squash this initiative. This is the power of being state chartered, had we been federally chartered it may not turned out this way
  
- Closing
  - As a republican myself I feel State imposed restrictions on any business are anti-capitalistic
  - We need to allow markets to act competitively
  - The current statute is archaic and outdated and for these reasons I would urge your support on SB 2266

# ND Credit Unions



## HOW THEIR TAX STATUS AFFECTS YOU...

Credit unions used their tax exemption to avoid paying

**\$2,234,131.41**

in federal income taxes.

In 2020, credit unions held a grand total of

**\$4,692,978,888.00**

in tax-free assets.

Even as local businesses struggled, credit unions used

**\$737,263.37**

of their tax subsidy on nonmember expenses.

Nurses actually paid **\$53,571,601.60**

Cashiers actually paid **\$19,267,894.80**

And teachers actually paid **\$17,189,864.67**

**MORE** in taxes than the sum credit unions have sought to avoid.



### Looking out for Local Communities

Community banks are critical to thriving local economies and help foster healthy small businesses.

Look no further than their performance in Paycheck Protection Program (PPP) lending where community banks made over 60 percent of first round loans.

It's time for Congress to examine the NCUA and the outdated tax code benefiting credit unions to the detriment of local communities and the community banks that serve them.

Data based on 2020 estimates from BLS Office of Employment/Unemployment Statistics (BLS/OEUS)

Amounts reflect total taxes paid in 2021.



23.0856.01003

Sixty-eighth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2266**

Introduced by

Senators Erbele, Larsen

Representatives Brandenburg, Hatlestad

1 A BILL for an Act to amend and reenact section 06-06-07 of the North Dakota Century Code,  
2 relating to credit union membership.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 06-06-07 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **6-06-07. Membership in credit union.**

7 1. The membership of a credit union consists of the incorporators and such other  
8 persons as may be elected to membership. Each member shall subscribe to and pay  
9 the initial installment on at least one share in the credit union and pay the entrance fee  
10 as provided by the bylaws of the credit union. Organizations, incorporated or  
11 otherwise, composed principally of the same general group as the credit union  
12 membership may be members of the credit union.

13 2. Credit union membership is limited to one or more groups having a:  
14 a. A common bond of occupation or;  
15 b. A common bond of association or to groups; or  
16 c. A group residing, working, or attending school within a geographic area that does  
17 not extend beyond a ~~seventy-five mile [120.70-kilometer]~~two-hundred-fifty-mile-  
18 ~~[402.34-kilometer]~~one-hundred-fifty-mile [241.40-kilometer] radius of the home-  
19 office of the credit union. ~~Except as provided by this section, an office of a credit~~  
20 ~~union that has a field of membership defined by geography may not be located~~  
21 ~~more than seventy-five miles [120.70 kilometers] from the credit union main-~~  
22 ~~office.~~ The restrictions on location and field of membership under this section do  
23 not apply to a credit union office location or field of membership approved by the  
24 board before ~~January 1, 2005~~August 1, 2023. In the event of a merger between

1 credit unions with different geographic fields of membership, the surviving credit  
2 union may expand the field of membership to include the geographic field of  
3 membership of the merged credit union. After December 31, 2004, a credit union  
4 may not establish and operate a new branch office that is outside the credit  
5 union's field of membership. ~~A branch office may not expand the geographic field~~  
6 ~~of membership of a credit union.~~

- 7 3. The board shall adopt a procedure through which all interested persons, including  
8 banking institutions and credit unions, are afforded reasonable opportunity to submit  
9 data, views, or arguments, orally or in writing; to obtain a hearing; and to intervene as  
10 a party to a proceeding concerning a proposed application for a credit union to expand  
11 the credit union's field of membership.

12 ~~4. Subject to authorization by the state credit union board, a state credit union may apply~~  
13 ~~for the same field of membership as a federal credit union.~~

23.0856.01002  
Title.

Prepared by the Legislative Council staff for  
Senator Klein

February 3, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2266

- Page 1, line 13, remove the overstrike over "a"
- Page 1, line 13, remove the underscored colon
- Page 1, line 14, remove "a. A"
- Page 1, line 14, remove the overstrike over "or"
- Page 1, line 14, remove the underscored semicolon
- Page 1, line 15, remove "b. A common bond of"
- Page 1, line 15, remove the overstrike over "~~or to groups~~"
- Page 1, line 15, remove ": or"
- Page 1, line 16, remove "c. A group"
- Page 1, line 17, remove "two-hundred-fifty-mile"
- Page 1, line 18, replace "[402.34-kilometer]" with "one-hundred-twenty-five-mile [201.17-kilometer]"
- Page 1, line 18, remove the overstrike over "~~the home office of the~~"
- Page 1, line 18, remove "a"
- Page 1, line 18, remove the overstrike over "~~Except as~~"
- Page 1, remove the overstrike over line 19
- Page 1, line 20, remove the overstrike over "~~defined by geography may not be located more than~~"
- Page 1, line 20, after "~~seventy-five~~" insert "one hundred twenty-five"
- Page 1, line 20, remove the overstrike over "miles"
- Page 1, line 21, after the overstruck closing bracket, insert "[201.17 kilometers]"
- Page 1, line 21, remove the overstrike over "~~from the credit union main office.~~"
- Page 1, line 23, remove the overstrike over "~~January 1, 2005~~"
- Page 1, line 23, remove "August 1,"
- Page 1, line 24, remove "2023"
- Page 1, line 24, remove the overstrike over "geographic"
- Page 2, line 4, remove the overstrike over "~~A branch~~"
- Page 2, remove the overstrike over line 5
- Page 2, remove lines 11 and 12

Renumber accordingly







March 28<sup>th</sup>, 2023

House Industry, Business, and Labor,

I would like to start off by thanking you for your service to the citizens of North Dakota. I realize you are very busy, so I will keep my testimony short.

SB 2266 Expanding Credit Union's field of membership is an important bill. This bill is about the citizens of North Dakota having the ability to choose which financial institutions they would like to have an account with or become a member owner of.

The opposition will tell you that almost or every corner of North Dakota is covered by a credit union. However, I would tell you that not all credit union's are alike. Very few financial institutions in North Dakota will lend money on manufactured homes (mobile homes). Some will say that their policies allow them to do these loans and they may even have a few on the books, but they likely do not have a program that helps lower income individuals and families purchase these homes, we do. Many will not finance earth homes or dome homes because the secondary market will not purchase them. We will.

My point being that the citizens of North Dakota deserve more access to affordable financial services. Credit Unions are founded on the philosophy of "people helping people"! The federal regulations have changed allowing a federally chartered credit union to apply for a field of membership that could include the whole state. We are not looking for parody with SB 2266, we are looking for a reasonable expansion of our field of membership.

Opponents of the SB 2266 will bring up that they feel we have an unfair advantage due to our Not For Profit tax status. But we do pay property taxes and sales / use tax. My biggest response to this is that all of our net income is used in ways that either benefit our members or our community. We lend it out, we offer lower rates on our loans and higher dividends on our members deposits. We have a volunteer board of directors, made up of members, that helps us do what is best for our membership. Our status also comes with restrictions. For example, our business loan portfolio can only be 1.75 time 7% of our total assets, or about \$11.2 million.

SB 2266 is a bill about your constituents having more options. Being able to choose where they would like to deposit their money or find a lender they would like to work with; about financial choice. Most likely they will choose more than one financial institution to work with and we should allow them the ability to do so.

Please vote yes and recommend a do pass on SB 2266  
Thank you for your time and consideration,

Steve DeLap  
President / CEO

the  
focus  
is on you

[www.vueccu.com](http://www.vueccu.com)

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Committee Chair Scott Louser and members of the committee,

I am Darla Schafer, Manager/CEO of Flasher Community Credit Union. I am here in support of SB 2266. Flasher Community Credit Union is a small credit union southwest of Bismarck/Mandan. We are the only credit union between Mandan and Lemmon, SD. We are an integral part of our community and have been serving our members since 1939.

I was one of the credit unions that testified against the last field of membership bill that was brought up in 2005. I guess I've been doing this for a long time. I was standing up for the small credit unions at that time as I have done throughout my career in the credit union industry. The bill that was brought at that time was not brought forth by the credit unions and what was brought forth only caused division among credit unions.

It is difficult for businesses to survive in small towns, as many of you may know. We are always competing with the bigger towns around us. Flasher is located near enough to Bismarck/Mandan that many businesses have closed over the years because we are only an hour from "uptown" where you can get almost anything. And now we are competing with the digital world that is found right on our phones.

We have found that being limited to a small geographic area is becoming more difficult to serve. Flasher used to have 500 people living in town when I was in school and now, we have around 220. I usually say 250 with the cats and dogs. When school is in session we double the population with 255 students K-12. We are supportive of everything in our community because it is essential for existence.

Flasher Community Credit Union strongly believes everyone should be able to own a house if they want to and we have financed many homes in Flasher and the surrounding communities because no one else will. We have helped numerous young families get started in a smaller home and then helped them move up to a larger home when one becomes available and as their families grow. We have also financed many mobile homes on farms as the younger, next generation moves back to begin farming. We have a lot of word-of-mouth advertising but have had to turn down several young couples because they were outside of our field of membership. Often, they don't get that chance at home ownership.

We also do ag lending, mainly with those farmers that are working a full or part time job and want to keep the family farm going. We have found that being limited to farms so close to one area increases our risk level when we have dry years like the last couple. If we could diversify farther away from a centralized area, we could mitigate the risk of dry years or limit our exposure to the housing market that may dip in one area but remain strong in another. Just losing a business in a small town can cause a large ripple effect throughout the community.

We would like to stay a state chartered credit union because we believe in keeping things local. We are proud of our community and our state. I don't think we would be here if we weren't. We have had a good working relationship with the Department of Financial Institutions. It does get frustrating at times when we have a field of membership issue. I think every small credit union has considered what expansion could be. Many of them have merged over the years and not all with state chartered credit unions. We are all striving to find ways to stay competitive with the financial industry that is changing around us. I am asking your support of SB 2266 to give consumers a choice in the changing financial landscape in North Dakota.

**HOUSE IBL - TESTIMONY IN REGARD TO SENATE BILL NO. 2266**

March 29, 2023

**To: *Committee Chairman Scott Louser and members of the committee***

**From: *Jeff Olson, President/CEO Dakota Credit Union Association***

The Dakota Credit Union Association (DakCU) represents 66 credit unions in North and South Dakota and over half a million credit union members. I am submitting this written testimony on behalf of our 18 state chartered credit unions and our 214,000 credit union members in North Dakota (ND).

North Dakota has a dual charter system. Today, 18 state chartered credit unions follow North Dakota Century Code as it pertains to credit union powers and under the oversight of the North Dakota Department of Financial Institutions (DFI). Our 14 federally chartered credit unions operate under the Federal Credit Union Act which is administered by the National Credit Union Administration (NCUA). Both ND state chartered credit unions and federally chartered credit unions are insured by the NCUA.

North Dakota state chartered credit unions are operating under a strict Field of Membership (FOM) statute, particularly in comparison to how federally chartered credit unions can operate. Since “open charter”<sup>1</sup> credit unions can only serve consumers who live within their FOM, our North Dakota credit unions are at a disadvantage, and many North Dakotans are being left behind or have limited options for locally owned and controlled financial services.

In 2005 there was an amendment passed that significantly impacted ND credit unions and amended NDCC 6-06-07. The current FOM statute reflects this 2005 amendment and provides: ***“Credit union membership is limited to groups having a common bond of occupation or association or to groups residing within a geographic area that does not extend beyond a seventy-five mile radius of the home office of the credit union. Except as provided by this***

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<sup>1</sup> “Open charter” means a credit union charter issued to serve groups within a geographical boundary. North Dakota Administrative Code 13-03-14-01 (5).

***section, an office of a credit union that has a field of membership defined by geography may not be located more than seventy-five miles from the credit union main office.”***

The amendment continues, ***“After December 31, 2004, a credit union may not establish and operate a new branch office that is outside the credit union's field of membership. A branch office may not expand the geographic field of membership of a credit union.”***

The bill that came out the 59<sup>th</sup> Legislative Assembly was SB 2263. It was introduced by Senator Espegard, a retired bank president from Grand Forks. This bill was passed with very little input from the North Dakota credit union industry and contrary to what you have been told, it was not cooperatively negotiated or collaboratively agreed upon. In fact, a number of North Dakota credit unions spoke out in opposition to this bill in 2005. The final amendment was more of a “compromised surrender.” It deeply divided our movement, and it took years to heal and bring all our credit unions back into our collaborative system. The bill clearly was meant to curb credit union growth and expansion in the state.

Under SB 2263, as reflected in the current statute, the only way for North Dakota open charter credit unions to expand beyond the 75-mile radius is to merge with another credit union. ***“In the event of a merger between credit unions with different geographic fields of membership, the surviving credit union may expand the field of membership to include the geographic field of membership of the merged credit union.”***

There were 55 credit unions operating in the state in 2005, of which 35 were state chartered credit unions. Within three years (2006 to 2009) following the passage of this amendment, six state chartered credit unions were absorbed or merged into larger credit unions, all before the financial crisis hit. Today, we have half the number (18) state chartered credit unions operating in our state.

This restrictive statute in North Dakota has hobbled North Dakota credit unions, while neighboring states' credit unions experienced double-digit increases in membership growth ever since this bill was enacted 18 years ago. (Please refer to addenda A & B). Since 2005, North Dakota credit unions have experienced a nine percent growth in membership. In comparison, membership growth in both Minnesota and Montana have exceeded 25 percent, Nebraska 33



percent, South Dakota 35 percent, and Iowa has grown by 81 percent. It should also be noted that all but three of Iowa's 80 credit unions are state chartered.

Addendum B refers to the specific state FOM from those states. This information was compiled in 2018 by the National Association of State Credit Union Supervisors (NASCUS). The author of this study was Bruce Jolly, partner in Reed and Jolly PLLC in Oakton, VA. Mr. Jolly has advised us that he is currently updating this study for NASCUS, and he submitted his comments and support for SB 2266 during the Senate IBL hearing in January. I have included those comments in this written submission under addendum C. Please refer to the 3<sup>rd</sup> and 4<sup>th</sup> paragraphs in his comments, where Mr. Jolly shares:

- *I am also a proponent of parity between state and federally chartered financial institutions, having authored in 1975 for the American Banker's Association, a chapter on parity statutes which was the first such 50-state analysis of those laws.*
- *I am convinced the changes proposed in SB 2266 will strengthen the dual chartering system in North Dakota by allowing state-chartered credit unions to address their fields of membership much the way Federal credit unions may form and grow their fields of membership in North Dakota.*

Instead of promoting a cooperative industry, the current statute threatens small credit unions in addition to leaving some areas of North Dakota underserved by a credit union unless a federal credit union expands into that underserved area. In comparison, federally chartered community or "open charter" credit unions are allowed to serve Combined Statistical Areas (CSA) of up to 2.5 million people or up to one million people in rural districts. A federally chartered credit union in North Dakota (or one from another state) could potentially expand their FOM to include the entire state. While SB 2266 would not prevent this, it would put our North Dakota state chartered credit unions in a better position to serve more North Dakotans.

NCUA continually makes updates to its FOM rule to modernize and facilitate consumer access to credit unions and enhance their delivery of services. One of the recent changes to FOM included amendments in 2016 to address the lack of financial access which was especially prevalent in rural communities due to the withdrawal of national financial institutions over the last decade.

So, why don't North Dakota credit unions just convert to a federal charter then? That's a fair question, and I ask you to refer to two addenda I have attached in support of my testimony.

The first is a copy of comments made by NCUA Board Chair Todd Harper to North Dakota credit unions during a virtual call on September 14<sup>th</sup>, 2021. Please refer to the highlighted bullet points: (Addenda D & E).

- ***To protect the Fund, we (NCUA) are actively monitoring certain segments of the system, including credit unions closely connected to the oil and gas industry and the agricultural sectors, among others.***
- ***We are also focusing on credit unions with elevated risks, such as those with large concentrations of commercial real estate loans relative to assets.***

The second (Addendum E) is a draft of the agency's four-year strategic plan, see page 12, under Climate Related Financial Risks, and note their mention of the need for FOM expansion, something that isn't possible under current state laws:

- ***Changing weather patterns will disproportionately affect farming communities. Over time, climate change will likely affect the value of collateral, including homs and vehicles. To remain resilient credit unions may, need to consider adjustments to their fields of membership as well as the types of loan products they offer. Efforts to combat climate change will likely give rise to new regulations, potentially increasing costs for credit unions as they adapt and respond.***

A clear advantage of a state charter is having a local regulator that understands our state's rural economy and market trends. Because of the prompt reaction of our association with the help of the DFI Commissioner, North Dakota credit unions were able to engage Governor Burgum, Agriculture Commissioner Goehring, and our federal representatives, to convince the NCUA to revise their climate related risk statement altogether to avoid harsh exam oversight and additional scrutiny on agricultural lending, leading to clarification in their finalized strategic plan:

- ***The agency does not intend to micromanage credit union lending decisions for climate financial risk, including lending to family farms and others in the agricultural sector as well as businesses tied to the fossil fuel industry. The NCUA Board underscores that nothing in this Strategic Plan should be construed as discouraging activities related to agriculture or fossil fuels.***

Clearly, preserving the state charter keeps oversight local, from the policy making process of the North Dakota legislative assembly to the safety and soundness oversight by ND DFI, and the administrative rules adopted by the State Credit Union Board.

### **An unlevel playing field:**

This bill will give our member owned state-chartered credits unions much needed similarity with the Federal FOM rules.

### **Credit unions are exempt from state and federal income tax.**

North Dakota state chartered credit unions are cooperative, nonprofit associations organized for the purposes of encouraging thrift among its members, creating a source of credit at a fair and reasonable rate of interest, and providing an opportunity for its members to improve their economic and social condition.

These member-owned, member-controlled, nonprofit associations return their earnings back to their members. As nonprofits, with no source of secondary investment capital, North Dakota credit unions are exempt from federal and state income taxes.

### **Who really is paying the banks' taxes?**

In 2016, the American Legislative Exchange Council (ALEC) published a report to state lawmakers that said; *“Hardworking individual taxpayers pay the true burden of business taxes. Regardless of the political rhetoric, keep in mind the well documented economic axiom: Businesses don't pay taxes, people do.”*

The credit union tax status is not based on the size of credit unions or the products and services that they offer; it is based on the credit union cooperative structure.

This rationale for the tax-exempt status has been ratified several times by Congress. 1935, 1936, 1937, 1951, 1998, 2005, 2008 and most recently in 2014 (House Ways and Means Committee tax reform proposal).

North Dakota credit unions pay property taxes, payroll taxes, and sales tax. North Dakota's 214,00 credit union members paid an estimated \$3.5 billion in state and federal income taxes in the in most recent tax year. In contrast, North Dakota credit unions provide nearly \$22 million in annual financial benefits to both members and non-members in the state in the following ways:

- \$.3 million in higher yields on savings

- \$1.8 million in lower fees (competition benefits non-members as well)
- \$19.8 million in lower loan rates (competition benefits non-members as well)
- Overall, because credit unions are in the marketplace there is \$8.5 million savings to non-members. (Addendum G)

If credit unions were taxed, the revenue would account for .03% of federal spending, funding federal government operations for ONLY 3.0 hours. (Addendum G)

**Community Reinvestment Act (CRA):** The Community Reinvestment Act was established by Congress in 1977. The Community Reinvestment Act (CRA) is a federal law enacted to encourage depository institutions to meet the credit needs of the communities where they are chartered, including low- and moderate-income neighborhoods.

Credit Unions are not subject to CRA. Congress has confirmed that “including credit unions under CRA is counter-intuitive given the member-owned nature of credit unions.”

**Credit unions are already serving low-income North Dakotans.**

Today, over 50 percent of North Dakota state chartered credit unions are designated low income and are already helping the underserved. In fact, North Dakota credit unions approved nearly 76 percent of mortgage applications from low/moderate income borrowers. (Addendum F)

**Unlevel playing field in market share – North Dakota banks own 90 percent of market.**

Community banks like to blame credit unions for their decline; however, national data clearly points to the largest 100 banks. Community banks had nearly 60 percent of the market share in 1992; today that market share is just under 17 percent while the largest 100 banking institutions has grown to nearly 75 percent. Over the same period, credit unions have only increased by 3 percent to today’s 8 percent market share. (Addendum G, source FDIC, NCUA, CUNA)

North Dakota banks have 90 percent of the market share. Today there are 428 branches in the state compared to 121 in-state credit union branches. In fact, there are almost as many out-of-state bank branches (88) as there are credit unions. (Addendum H)

**As of September 30, 2022, North Dakota banks reported \$41 billion in assets; North Dakota credit unions reported \$4.7 billion.**



In the House Government Operations Division committee hearing in January of this year, DFI Commissioner Kruse testified, “our banks are expanding outside of North Dakota borders.” Today, 30 percent of state chartered bank deposits come from out of state while assets from the state banks increased 17 percent. In fact, in the last decade alone, North Dakota bank assets have grown by 173 percent compared to credit unions’ 89 percent. (Addendum I)

SB 2266 would amend NDCC 6-06-07, Membership in a credit union, to ensure that North Dakota state chartered credit unions have similarity to federally chartered credit unions by allowing an individual to join an “open charter” credit union if they work or attend school in the geographic FOM, instead of being limited to “residing” as is the current statute. We are also asking the legislature to approve an increase in the FOM radius. Currently, state “open” chartered credit unions are limited to 75-mile radius from the home office; under SB 2266 before you today, state chartered credit unions could apply for an expansion up to 125-mile radius of any office of the credit union, allowing our more rural credit unions to expand and diversify their FOM to address safety and soundness issues.

We are preserving section 3 of NDCC 6-06-07 which allows a process for interested parties, including banks and credit unions, to submit comments, views or arguments concerning a FOM expansion application.

We are also bringing an amendment today to clarify potential interpretation issues. As already noted above, our intent is for an “open charter” credit union to be able to apply for a FOM expansion to their geographic area that does not extend beyond 125-mile radius of a credit union office. The first revision is to Page 1, line 14, replaces the second “or” with “and” which would allow a credit union to have a field of membership that could consist of both groups having a common bond of occupation and groups residing, working or attending school within a geographic area. Or in other words, a combined “closed” and “open” field of membership.

The intent of the next amendment with regard to Page 1, line 23, strike “geographic”, and Page 1, line 24, strike “geographic” is in the event a credit union with a field of membership based on a common bond of occupation or association, or “closed” charter merges with the either another “closed” charter or “open” charter credit union, the continuing credit union can expand its field of membership to include the field of membership of the merged credit union.

Most importantly, SB 2266 will preserve and expand financial choice for all North Dakotans. Our state's credit unions and our 214,000 members deserve an operating environment that is fair, modern, and able to compete with other financial service providers, especially at a time when many regional banks have shifted to less agricultural related lending.

Let's protect our North Dakota credit unions and financial choice for all North Dakotans. I humbly ask for the committee's do pass recommendation on SB 2266.

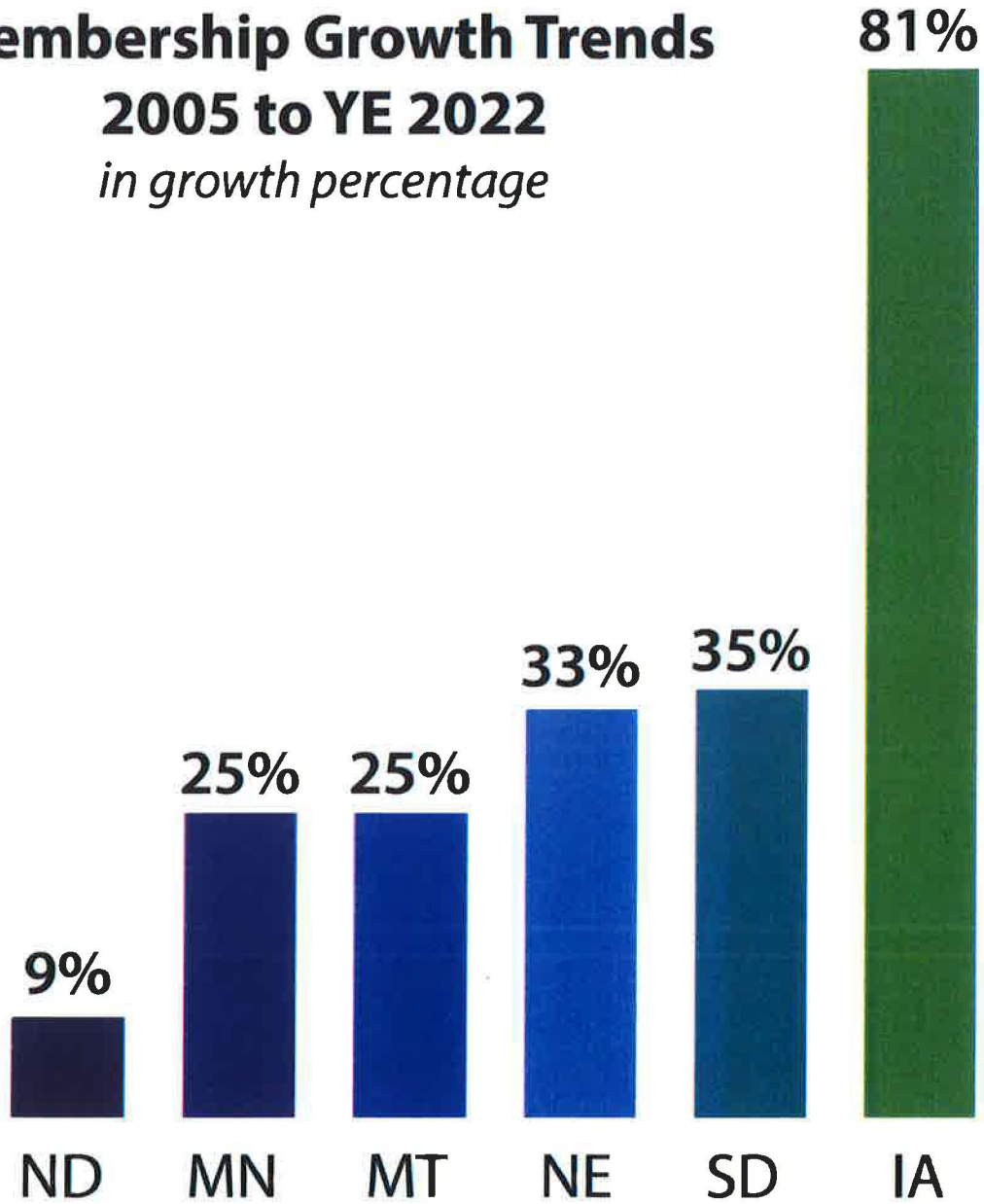
Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeff Olson". The signature is written in a cursive, flowing style.

Jeff Olson

DakCU President/CEO

**Credit Union State  
Membership Growth Trends  
2005 to YE 2022**  
*in growth percentage*



***Data compiled by the Credit Union National Association  
& The National Credit Union Administration***



The National Voice of the State Credit Union System

**Credit Union Field of Member – neighboring States.**

Compiled from by Bruce Jolly. Reed and Jolly PLLC –

Sponsored by NASCUS (National Association of State Credit Unions Supervisors, Arlington, VA)

**Minnesota:**

“persons within one or more groups or any combination of groups having a common bond of occupation, association, or community. "Community" means an identifiable local neighborhood, community, rural district, or other geographically well-defined area in which individuals have common interests or interact. "Well-defined" means the proposed area has specific geographic boundaries, including a school district, city, township, county, or clearly identifiable neighborhood, but does not include the state as a whole.”

\*includes live or work - Field of membership amendments, that parallel those allowed federal credit unions, are permitted based on parity provisions of Minnesota Statutes,

**Montana:**

“common bond of similar occupation, association, or interests or groups within a well-defined neighborhood, community, or rural district or employees of a common employer and members of the immediate family of such persons.”

**Nebraska:**

“groups of both large and small membership having a common bond of occupation or association, including religious, social, or educational groups, employees of a common employer, or members of a fraternal, religious, labor, farm, or educational organization and the members of the immediate families of such persons.”

\* includes community-wide or county-wide geographic memberships.

**South Dakota:**

All credit unions are federal chartered and follow the NCUA’s FOM guidelines. Today, SD credit unions could qualify for state-wide FOM under the NCUA’s Rural district guidelines.

**Iowa:**

“Residence within specified geographic boundaries - Community common bond shall be based on residence, employment or principal place of business in a specific geographic boundary - bylaw - "persons who reside in or who work for an entity in"

\*Changes in the common bond may be made by the board of directors.



## Addendum C

**From:** Bruce Jolly <[Bruce@reedandjolly.com](mailto:Bruce@reedandjolly.com)>

**Sent:** Friday, February 3, 2023 9:22 AM

**To:** [douglarsen@ndlegis.gov](mailto:douglarsen@ndlegis.gov) <[douglarsen@ndlegis.gov](mailto:douglarsen@ndlegis.gov)>

**Subject:** Senate Bill 2266 - to amend the Field of Membership provisions of the North Dakota Credit Union Law

Senator Doug Larsen, Chairman  
Senate Industry and Business Committee  
North Dakota Senate

Good morning, Chairman Larsen:

It has been called to my attention that a chart I prepared for the National Association of State Credit Union Supervisors (NASCUS) has been introduced as an exhibit to testimony relating to SB 2266, and my name listed as opposed to the proposed legislation. [https://www.ndlegis.gov/assembly/68-2023/regular/bill-testimony/bt2266.html?bill\\_year=2023&bill\\_number=2266](https://www.ndlegis.gov/assembly/68-2023/regular/bill-testimony/bt2266.html?bill_year=2023&bill_number=2266)

Please accept this communication as a request to be listed in support of the changes to the field of membership laws proposed in SB 2266.

I was the Expert Witness in the Senate's consideration of the Credit Union Membership Access Act, adopted by Congress which now forms the basis of the field of membership provisions of the Federal Credit Union Act. I testified in favor of those changes and have consistently supported field of membership proposals which allow credit unions, both state and federal, to reach those within a field of membership without regard to confining geographic boundaries.

I am familiar with North Dakota, having conducted compliance seminars for credit unions in Bismarck, Minot and Fargo upon occasion. I am also a proponent of parity between state and federally chartered financial institutions, having authored in 1975 for the American Banker's Association, a chapter on parity statutes which was the first such 50-state analysis of those laws.

I am convinced the changes proposed in SB 2266 will strengthen the dual chartering system in North Dakota by allowing state-chartered credit unions to address their fields of membership much the way Federal credit unions may form and grow their fields of membership in North Dakota.

I appreciate your attention to this request and would be pleased to answer any questions.

Best,  
Bruce O. Jolly, Jr., Esq.  
Reed & Jolly PLLC  
PO Box 3917  
Oakton, VA 22124  
Office: 703-241-5858  
Cell: 703-501-7962

If you have received this communication in error please notify Reed & Jolly PLLC at once at: [Bruce@ReedandJolly.com](mailto:Bruce@ReedandJolly.com) or by calling Bruce Jolly at 703-241-5858.

## Dakota Credit Union Association's Virtual Hike the Hill

The Honorable Todd M. Harper

Chairman, National Credit Union Administration (NCUA)

Tuesday, September 14, 2021

10:15 AM to 10:45 AM Eastern

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- I hope that all of you, your families, and your credit unions have safely emerged from what has been a truly extraordinary 18 months.
- Despite many challenges, credit unions have pressed forward, doing their part to support their members and the communities they serve.
- But I must caution everyone that we are not out of the woods just yet.

### The Economic Outlook

- Over the last few months, the near-term economic outlook has improved, and the credit union industry as a whole remains relatively strong.
- Despite the improving outlook, credit unions may still face a difficult environment in the months ahead.
- As supplemental unemployment benefits, forbearance programs, eviction moratoriums and other COVID-related relief efforts end – and, in fact, some of these things recently expired – many households will experience financial stress, especially those low-income households and communities of color that were acutely affected by the pandemic and recession.
- With many households likely to experience financial stress in the months ahead, I urge all of you to continue working with your members in need.
- To support your efforts, the NCUA has instructed its examiners to refrain from criticizing your efforts to provide prudent relief to members, when conducted in a reasonable manner with proper controls and management oversight.
- Additionally, targeted relief measures, like our recently finalized capitalization of interest rule, give you additional tools to assist your members.

### The NCUA's Response to COVID-19

- The top priority for the NCUA Board has been, and continues to be, ensuring the credit union system and the Share Insurance Fund are prepared to weather any economic fallout related to the pandemic.
- To protect the Fund, we are actively monitoring certain segments of the system, including credit unions closely connected to the oil and gas industry and the agricultural sectors, among others.
- We are also focusing on credit unions with elevated risks, such as those with large concentrations of commercial real estate loans relative to assets.
- And, as the pandemic evolves, the NCUA will continue to adjust its supervision and examination program to address potential risks to the Share Insurance Fund and the broader system.

### Consumer Financial Protection

- Equally vital to credit union members is consumer financial protection and fair and equitable access to credit.





union system assets and 7 percent of credit union system membership. By 2021, credit unions with less than \$50 million in assets represented 52 percent of all credit unions and accounted for only 2 percent of all credit union system assets and only 4 percent of credit union system membership.

If these long-running consolidation trends continue, there will be fewer credit unions in operation in 2026 and those that remain will be considerably larger and more complex. In the first quarter of 2021, there were 677 federally insured credit unions with assets of at least \$500 million, 37 percent more than five years earlier. These 677 credit unions represented just 13 percent of all credit unions but accounted for 78 percent of credit union system membership and 83 percent of credit union system assets. Large credit unions tend to offer more complex products, services, and investments. Increasingly complex institutions will pose management challenges for the institutions themselves as well as the NCUA, as the risks posed by individual, large institutions become more significant to the Share Insurance Fund.

### Climate-Related Financial Risks

Climate change is accelerating and the number – and cost – of climate-related natural disasters is rising. The economic effects of these events are clear. Each year, natural disasters like hurricanes, wildfires, droughts, and floods impose a substantial financial toll on households and businesses alike. The physical effects of climate change along with efforts to address climate change and transition to a low-carbon economy pose significant risks to the U.S. economy and the U.S. financial system.

Credit unions need to consider climate-related financial risks and how they could affect their membership and institutional performance. For instance, a credit union's field of membership is often tied to a particular industry or community. Some industries, like the energy and auto industries, may be disproportionately affected by climate change and the transition away from fossil fuels towards renewable forms of energy. Changing weather patterns will disproportionately affect farming communities. Over time, climate change will likely affect the value of collateral, including homes and vehicles. To remain resilient credit unions may need to consider adjustments to their fields of membership as well as the types of loan products they offer. Efforts to combat climate change will likely give rise to new regulations, potentially increasing costs for credit unions as they adapt and respond.

Climate change presents several complex conceptual and practical challenges not only for credit unions but also for the NCUA. The agency will need to adapt its risk monitoring framework to account for climate-related threats to financial stability, the credit union system, and the Share Insurance Fund.

### Challenges in Critical Lending Markets



## Consumers choose North Dakota credit unions as their best financial partner

As not-for-profit, member-owned financial institutions, credit unions know and work for their members, not bank shareholders.

Consumers are 1.5x more likely to report feeling their credit union cares about their financial well-being compared to for-profit financial institutions. That's why America's member-owned, democratically-controlled credit unions remain an extremely popular financial alternative for more than 130 million people.

### North Dakota credit unions APPROVED

# 75.7%

of total mortgage applications from low/moderate income borrowers.

### North Dakota credit unions deliver big financial benefits

**\$0.3M** higher yields on savings

**\$1.8M** lower fees

**\$19.8M** lower loan rates

**\$8.5M** savings to non-members

### Responding through local ownership and control

Subchapter S status allows many for-profit banks to enjoy a similar tax advantage to credit unions. However, while credit unions pass this saving to average consumers through features like lower fees and higher savings yields, Subchapter S banks pass the value of their tax advantage through to their shareholders.

**Nationally:**  
1,584 Subchapter S banking institutions account for **\$681.0 billion** in assets

**North Dakota:**  
44 Subchapter S banking institutions account for **\$19.1 billion** in assets

U.S. Federal Revenue Losses due to Bank Subchapter S Election

# \$17.8 BILLION

since 1997

Source: CUNA Estimates & FDIC

North Dakota credit unions provide **\$21.9M** in annual financial benefit.

If North Dakota banks were structured like credit unions, the **\$2.0 billion** they paid in shareholder dividends over the past decade would have instead been paid to small depositors.

### Serving America's tax payers

Taxing credit unions is a direct additional tax on consumers-owners who already bear substantial income tax burdens.

# 213,706

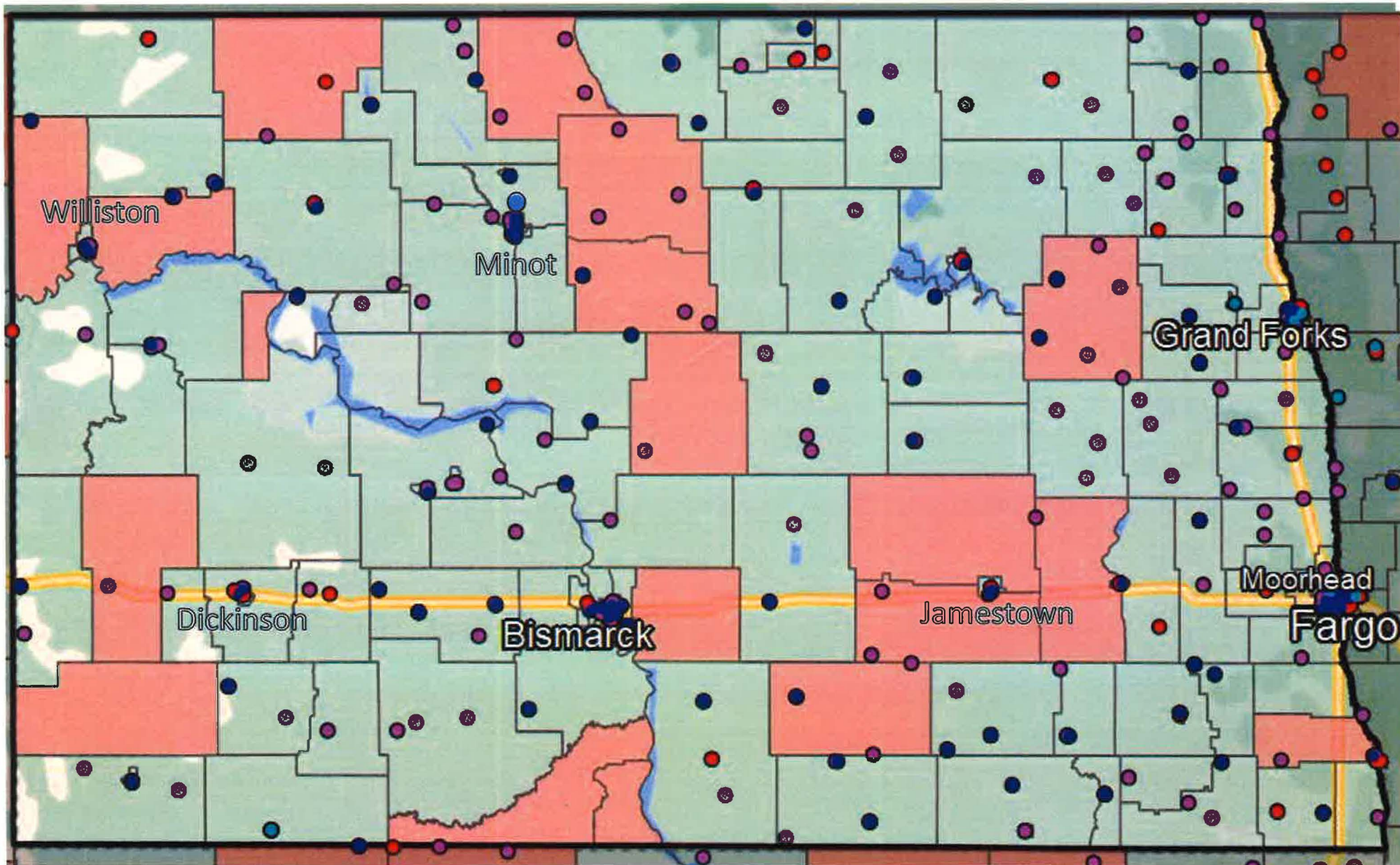
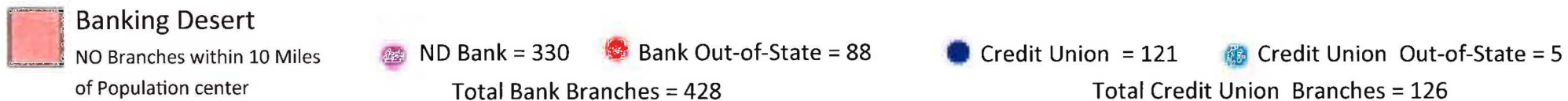
North Dakota credit union members paid an estimated **\$3.5 Billion** in state and federal income taxes in the most recent federal tax year.

If credit unions were taxed, the revenue would only account for **0.03%** of federal spending, funding federal government operations for **ONLY 3.0 hours**.

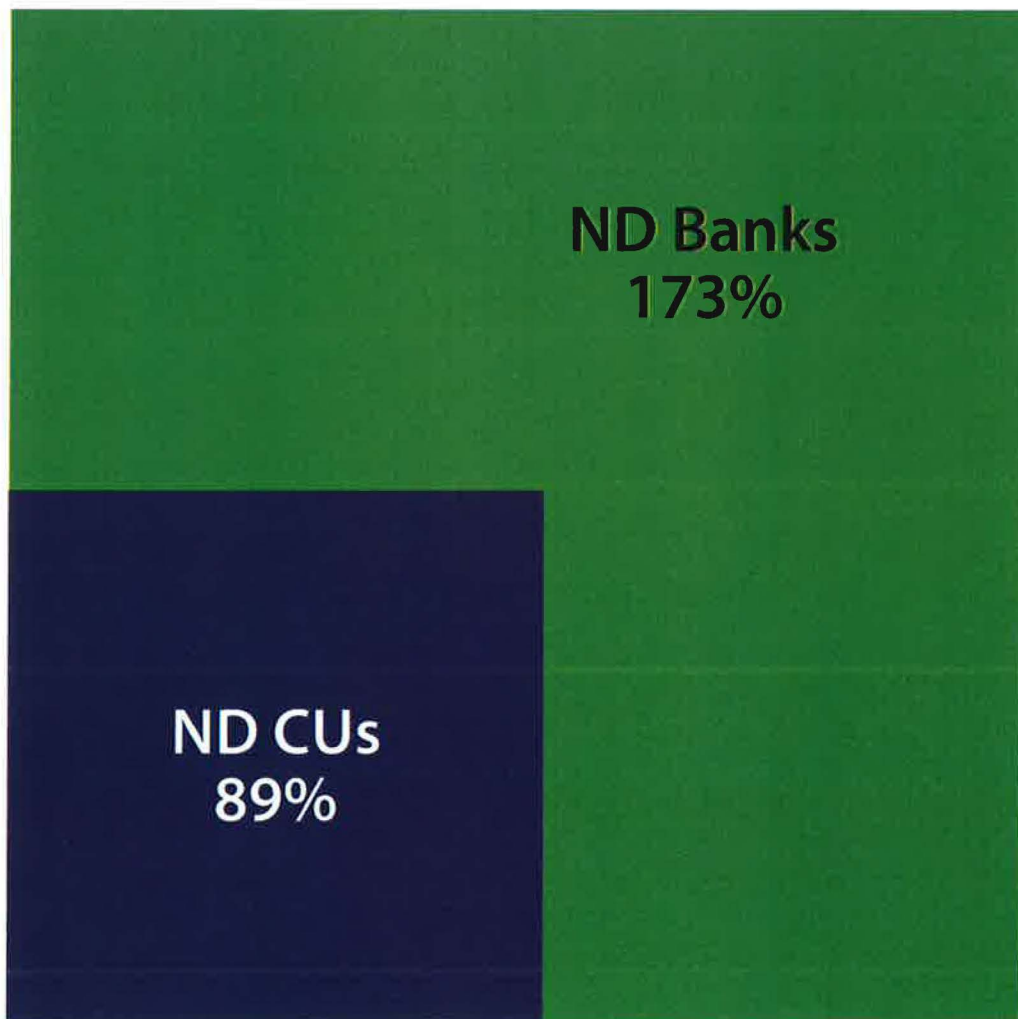


# Financial Institutions / Branches in North Dakota

Addendum G



**2012 to 2022 North Dakota Bank to  
North Dakota Credit Union Asset Growth**  
*in growth percentage*



**Testimony of Rick Clayburgh**  
**North Dakota Bankers Association**  
**SB 2266**  
**March 29, 2023**

Chairman Louser and members of the House Industry, Business and Labor Committee, for the record, I am Rick Clayburgh, President and CEO of the North Dakota Bankers Association (NDBA). I am here today on behalf of NDBA's sixty-three member banks to express our opposition to SB 2266.

In 2005, the Legislature passed SB2263, which was a joint effort by the North Dakota Bankers Association and the North Dakota Credit Union League to better define the field of membership for state chartered, community credit unions. The main purpose was to remove the ambiguity and provide clarity in the statute and administrative rules governing the field of membership. At the time, the credit union board faced a number of legal and administrative industry challenges to the board's interpretation of the statute.

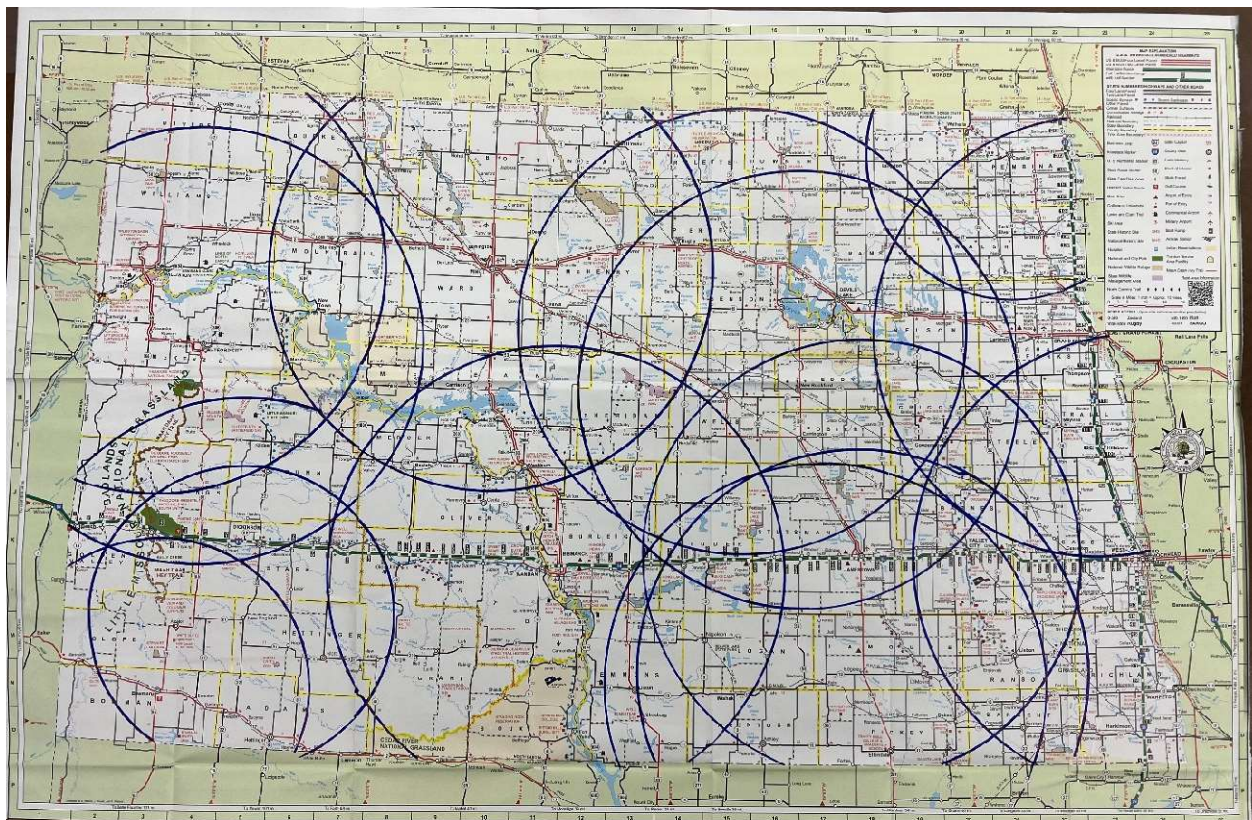
Prior to 2005, NDCC 6-06-07 provided that membership of a state chartered, community-based credit union was "limited to groups having a common bond of occupation or association or to groups within a well-defined rural or urban district." That was statutory language of limitation that had applied for years in North Dakota. During that time, the state credit union board administrative regulations defined a "well defined rural or urban district" as a 50-mile radius from the credit union's main office. Then the board policy changed and expanded that to a 75-mile radius. Although credit union board rules stated otherwise, it appeared at the time that the board was approving branch applications that allowed "leapfrogging," and did, in fact, expand credit union geographic territories so they no longer bore any resemblance to a rural or urban district. The 2005 legislation codified the credit union board's 75-mile radius standard and clarified that branching was limited to within that radius.

States restrict field-of-membership because credit unions by law have a relatively narrow mission of serving low- and modest-income individuals and communities. Because of their mission, credit unions are not subject to the same level of regulatory oversight or taxation that community banks face. While some will try to argue that North Dakota has one of the strictest field-of-membership statutes, nothing could be further from the truth. Across the country, community-based credit union field of membership



is restricted by statute. 78% of states restrict field of membership around similar language focused on well-defined neighborhood, community, or rural district, which is much like North Dakota's old statutory language.

What public policy needs would be served by SB 2266? None! We are well aware of the credit unions' lobbying efforts nationwide to water down field-of-membership requirements. However, there is no public benefit to expanding the credit union field-of-membership radius here in North Dakota. Some have argued it's to address a "financial desert in North Dakota". No such desert exists. North Dakota citizens are already being served by the number and distribution of financial institutions throughout the state. In North Dakota, there are 19 State Chartered Credit Unions with 111 branches. In addition, there are 77 State and National Banks in ND with 392 branches in 175 communities. More than 80% of North Dakota communities with populations greater than 100 people are served by a bank.

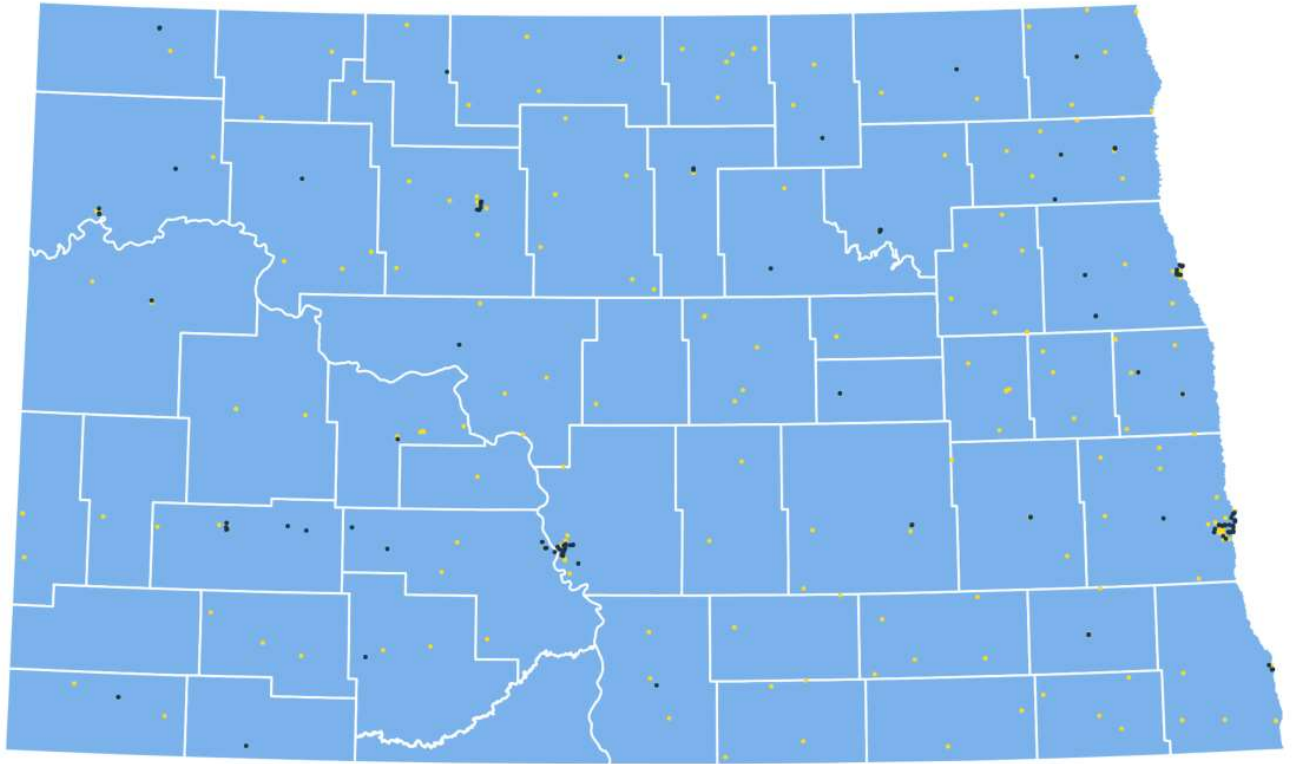


This map shows the area of state coverage the 75-mile FOM radius provides. Note – this is not inclusive of all community credit unions FOM or branches.



# North Dakota

## BRANCH LOCATIONS OF NORTH DAKOTA BANKS



Chartered By: ● Federal ● State

This map shows bank branches in North Dakota in 2020 – It does not include the main bank, just branches.

So, what would SB 2266 do? In simple terms, it would increase an already unfair competitive advantage by nearly tripling the square mile area in which an income tax-exempt credit union competes with a tax paying bank. North Dakota credit unions are thriving in great part because of that income tax exemption.

The credit unions would have you believe they do not pay taxes because they are pass-through businesses for tax purposes as they are “not-for-profit, member-owned financial cooperatives that return earnings back to their members in the form of lower rates, lower fees, and dividends.”

In reality, the tax-exempt status afforded credit unions is given by the United States Internal Revenue Code which states specifically, "Credit unions without capital stock organized and operated for mutual purposes and without profit." IRC § 501(c)(14)(A).

Like today's credit unions, mutual savings and savings and loan associations used to have tax exempt status. However, in 1951, the United States Congress removed the exemption when it was determined those institutions had outgrown their tax-exempt status because of their direct competition to obtain customers of tax paying financial institutions. "At the present time, mutual savings banks are in active competition with commercial banks and life insurance companies for the public savings, and they compete with many types of taxable institutions in the security and real estate markets. As a result, your committee believes that the continuance of the tax-free treatment now accorded mutual savings banks would be discriminatory." (Senate Report No. 781, 1951-2 C.B. 476).

North Dakota law currently requires credit union membership to show a common bond or limited geographical location of 75 miles. North Dakota credit unions have thrived under the current law, growing in both locations and assets. Make no doubt about it, North Dakota credit unions are actively competing with North Dakota banks. The credit union competitive strength is, in part, because they can maintain their profits and price their loans and deposits cheaper than tax paying North Dakota banks. Can you imagine the pricing advantages all businesses would have if they didn't have to pay tax on their profits?

Mr. Chairman and committee members, NDBA believes expanding the credit union field-of-membership provides no significant public benefit and only exacerbates an unfair competitive advantage. Therefore, we urge the committee not to amend SB 2266 and give it a "Do Not Pass" recommendation.

Thank you for your consideration of my testimony.



NORTH DAKOTA  
**BANKERS**  
ASSOCIATION

## Vote “NO” on SB 2266

### Background

North Dakota’s current credit union field of membership law was enacted in 2005 and codified the 75-mile radius that had been adopted by the State Credit Union Board to remove ambiguity and provide clarity. The 2005 legislation established that a credit union could branch only within their field of membership. This provision was enacted to prohibit credit unions from using branching to leapfrog across the state to the detriment of smaller credit unions.

### Credit Unions Have Been Growing

According to the state department of financial institutions, state credit union assets, loan activity and numbers of physical locations in North Dakota have grown somewhat more than those of state-chartered banks in recent years.

### Current Field of Membership is Clear and Fair

The credit union lobby is arguing that North Dakota’s field of membership is the most restrictive in the country. However, during the committee hearing, the department of financial institutions confirmed current North Dakota law is clear and is not the most restrictive state law.

### ND Citizens Already Have Access to Credit Unions

The credit union lobby believes they need expanded membership to ensure citizens’ financial needs are covered. The facts show that North Dakota citizens, border to border, have complete access to have their financial needs served. In every corner of the state, individual citizens have multiple choices to join a credit union. Across North Dakota, there are 19 State Chartered Credit Unions with 111 branches and there are 77 State and National Banks in ND with 392 branches in 175 communities.

### Un-Level Playing Field

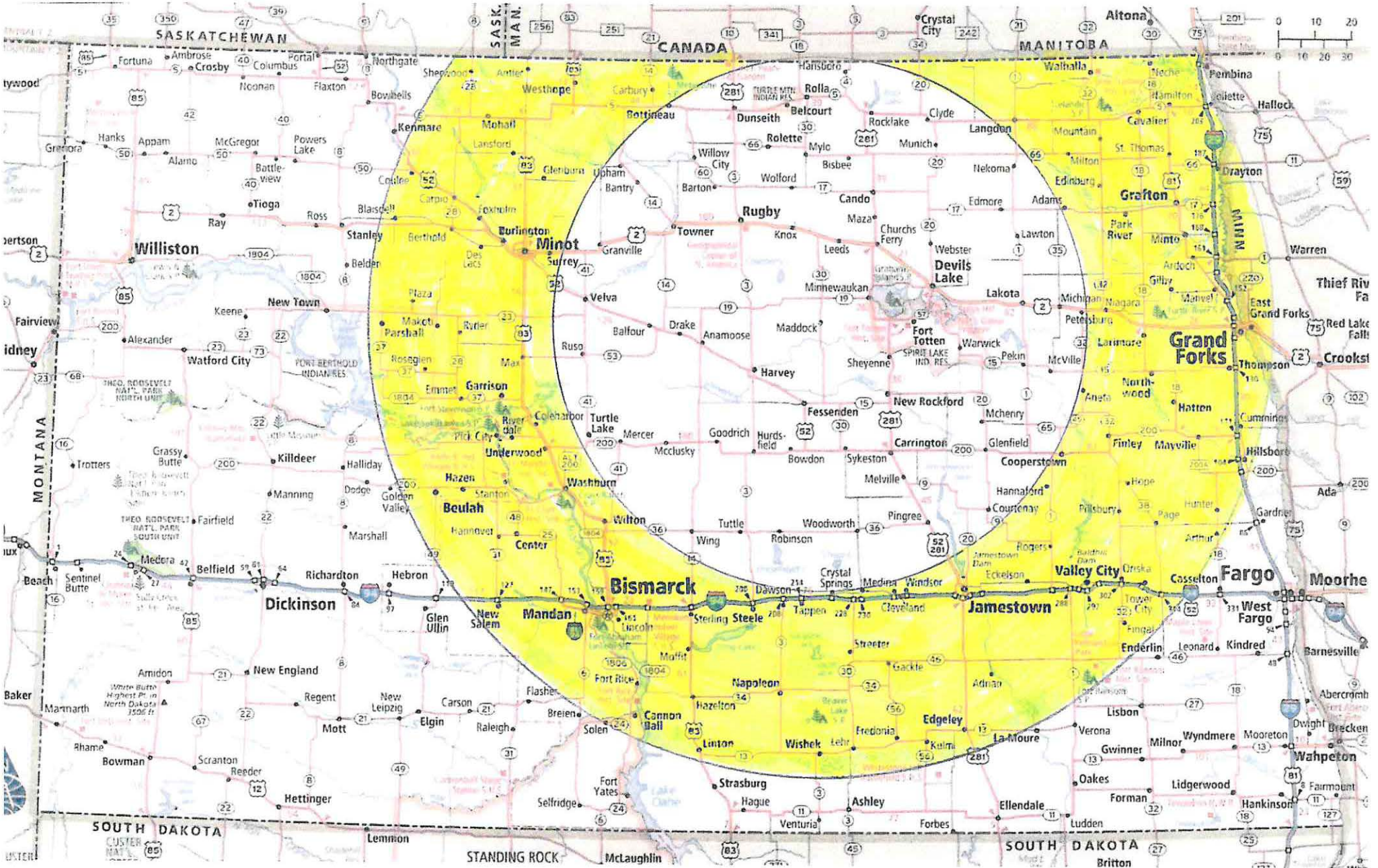
The credit unions have testified they support SB 2266 because it will allow them grow even bigger and compete better with banks. Credit unions acknowledge their income tax-free status and exclusion from bank regulations are an advantage they want to keep and expand **without any leveling** of the legal or regulatory playing field.

### Bottom Line

1. Banks are not afraid of competition – they want **fair** competition.
2. CRA is one example of a federal law that applies to banks but not credit unions. Since banks must comply with **costly regulations** like CRA, maybe it is time to have credit unions comply with the same regulations to make sure they are serving their communities.
3. Credit union income is not subject to either state or federal income taxes. All North Dakota bank income is fully subject to federal and state income taxation.
4. **Credit Unions: once a member, always a member!** If a member of a credit union moves out of their credit union’s field of membership, they can still be a member and conduct business with that credit union.



# 75 Mile Field of Membership Radius from Maddock, ND – Increased to 125 Miles





**FOM by State**

**NASCUS State Regulators National Meeting  
March 2018**

**From a Matrix Compiled by Bruce Jolly (ReedandJolly)**

<b>State</b>		<b>Notes</b>
<b>Alabama</b>	<p><b><u>Ala.Code 1975 § 5-17-5 § 5-17-5. Membership.</u></b></p> <p>... Credit union membership shall consist of the incorporators and such other persons as may be elected to membership and who subscribe to at least one share and pay the initial installment thereon and the entrance fee. Organizations, incorporated or otherwise, composed for the most part of the same general group as the credit union membership may be members. Credit union organization shall be limited to groups, of both large and small membership, having a common bond of occupation or association or to groups within a well-defined neighborhood, community or rural district.</p>	
<b>Alaska</b>	<p><b><u>Sec. 06.45.070. Membership.</u></b></p> <p>Credit union membership consists of the incorporators and other persons and incorporated and unincorporated organizations, to the extent permitted by regulations adopted by the commissioner, elected to membership. Each member shall subscribe to at least one share of the stock of the credit union and pay the initial installment on the stock and a uniform entrance fee if required by the board of directors of the credit union. Credit union membership is limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district.</p>	
<b>Arizona</b>	<p><b><u>6-506. Organization procedure</u></b></p> <p>C. The incorporators shall prepare, adopt and execute bylaws consistent with this chapter for the general governance of the credit union. The bylaws, among other things, shall provide:</p> <ol style="list-style-type: none"> <li>1. The proposed field of membership which shall be limited to groups having a common bond of interest, occupation or association or to groups within a well-defined neighborhood, community or rural district consistent with the purposes of the credit union.</li> </ol>	
<b>California</b>	<p><b><u>14155.</u></b></p> <p>Upon reasonable notice and opportunity to be heard, the commissioner may deny the application for a certificate to act as a credit union or an expansion of the field of membership of an existing credit union for any of the following reasons:</p> <ol style="list-style-type: none"> <li>(a) The field of membership of the applicant is contrary to the principles of organizing credit unions, including principles of organizing credit unions based on common bond of occupation,</li> </ol>	

	association, or groups within a well-defined neighborhood, community or rural district.	
<b>Colorado</b>	<p><b>11-30-103. Membership</b></p> <p>(2) Credit union organization and membership, other than those of a central credit union, shall be limited to groups having a common bond of employment or association or groups which reside within a well-defined neighborhood, community, or rural district having a population of no more than twenty-five thousand or as otherwise authorized by the board. Small groups which the commissioner determines to lack the potential membership to organize their own credit union may be eligible for membership in an existing credit union if such small groups have a common bond of employment or association. A member of the immediate family of any person who, under the provisions of this article, is eligible for membership in a credit union may also be admitted to membership therein. "Immediate family" means persons related by blood, by marriage, or by adoption.</p>	
<b>Connecticut</b>	<p><b>Section 36a-438a - Field of membership.</b> Expansion. Change in field of membership.</p> <p>(a)(1) Except as provided in subdivision (2) of this subsection, the field of membership of a Connecticut credit union is limited to (A) a single common bond membership, (B) a multiple common bond membership, or (C) persons within a well-defined community, neighborhood or rural district.</p>	
<b>Florida</b>	<p><b>657.002 Definitions.</b></p> <p>—As used in this chapter:</p> <p>(9) "Limited field of membership" means the defined group of persons designated as eligible for membership in the credit union who:</p> <ul style="list-style-type: none"> <li>(a) Have a similar profession, occupation, or formal association with an identifiable purpose;</li> <li>(b) Live or work within an identifiable neighborhood, community, rural district, or county;</li> <li>(c) Are employed by a common employer; or</li> <li>(d) Are employed by the credit union; and members of the immediate family of persons within such group.</li> </ul>	
<b>Georgia</b>	<p><b>O.C.G.A. § 7-1-630</b></p> <p>§ 7-1-630. Initial subscribers; contents and filing of articles; other required filings; fee for investigation; selection of initial directors ... (b) For purposes of this article, "common bond" is described as that specific relationship of occupation, association, or interest; residence or employment within a well-defined neighborhood, community, or rural district; employees of a common employer; or members of a bona fide cooperative, educational, fraternal, professional, religious, rural, or similar organization which tends to create a mutual interest between persons sharing the relationship. Persons related by blood, adoption, or marriage to or living in the same household with a person within such common bond and the surviving spouses of deceased members shall also be considered within the common bond.</p>	



<p><b>Idaho</b></p>	<p><b><u>26-2110. MEMBERSHIP.</u></b></p> <p>... (b) Credit union organizations shall be limited to groups having a common bond of occupation or association, or to residents within a well-defined neighborhood, community, or rural district, employees of a common employer, or members of a bona fide fraternal, religious, cooperative, labor, rural, educational, or similar organization and members of the immediate family of such persons.</p>	
<p><b>Illinois</b></p>	<p><b>Sec. 1.1. Definitions.</b></p> <p><b>Common Bond</b> - The term "common bond" refers to groups of people who meet one of the following qualifications:</p> <p>(1) Persons belonging to a specific association, group or organization, such as a church, labor union, club or society and members of their immediate families which shall include any relative by blood or marriage or foster and adopted children.</p> <p>(2) Persons who reside in a reasonably compact and well defined neighborhood or community, and members of their immediate families which shall include any relative by blood or marriage or foster and adopted children.</p> <p>(3) Persons who have a common employer or who are members of an organized labor union or an organized occupational or professional group within a defined geographical area, and members of their immediate families which shall include any relative by blood or marriage or foster and adopted children.</p>	
<p><b>Indiana</b></p>	<p><b>IC 28-7-1-10 Membership</b></p> <p>Sec. 10. (a) The membership of credit unions shall be clearly and specifically identified. The membership of a credit union shall be limited to one (1) or more qualified groups of persons, immediate family members of the persons in the qualified group or groups, and organizations of those persons. For purposes of this section, a <u>qualified group</u> consists of:</p> <ol style="list-style-type: none"> <li>(1) persons having a common bond of occupation, trade, or professional association;</li> <li>(2) members of a labor organization;</li> <li>(3) members of a church;</li> <li>(4) persons engaged in a common trade or profession within a well defined geographical location;</li> <li>(5) employees of the credit union;</li> <li>(6) persons who are members of a farm bureau cooperative, or other farm bureau organization, and who have subscribed to one (1) or more shares; or</li> <li>(7) persons who reside or are employed within a <u>community</u>.</li> </ol> <p><b>PIC 28-7-1-0.5 Definitions</b></p> <p>Sec. 0.5. The following definitions apply throughout this chapter:</p> <ol style="list-style-type: none"> <li>(12) "Community" means: <ol style="list-style-type: none"> <li>(A) a second class city;</li> <li>(B) a third class city;</li> <li>(C) a town;</li> <li>(D) a county other than a county containing a consolidated city;</li> </ol> </li> </ol>	

	(E) a census tract; (F) a township; or (G) any other municipal corporation (as defined in IC 36-1-2-10).	
<b>Iowa</b>	<p><b><u>Chapter 533 - CREDIT UNIONS</u></b></p> <p>533.102 Definitions. As used in this chapter, unless the context otherwise requires:</p> <p>2. "Common bond" means the shared characteristic of members of a credit union.</p> <p><b>533.202 Common bond – membership – ownership share.</b></p> <p>1. a. State credit union organization shall be available to groups of individuals who have a common bond of association such as, but not limited to, occupation, common employer, or residence within specified geographic boundaries.</p> <p>b. Changes in the common bond may be made by the board of directors.</p>	
<b>Kansas</b>	<p><b><u>Article 22. - CREDIT UNIONS</u></b></p> <p><b>17-2205. Membership of credit union;</b> continuation of branch operations, limitations.</p> <p>(b) (1) Credit union organizations shall be limited to:</p> <p>(A) A group having a single common bond of occupation or association;</p> <p>(B) a group having multiple common bonds of occupation or association or any combination thereof. No such group shall have a membership of more than 3,000 except as permitted in subsections (c) or (d); or</p> <p>(C) persons residing, working or worshipping in or organizations located within a geographic area.</p>	
<b>Kentucky</b>	<p><b><u>286.6-107 Membership defined.</u></b></p> <p>... (2) Credit union membership shall be limited to persons having a common bond of similar occupation, association or interest.</p>	
<b>Louisiana</b>	<p><b><u>RS §645. Membership</u></b></p> <p>B. Credit unions shall be organized only within groups that have a common bond of residence within a well defined neighborhood, small community, or rural district, or occupation, or association, or any combination thereof. The minimum potential of one hundred persons shall be required in groups having a common bond of occupation, and a potential of two hundred families shall be required in other type groups. Employee groups with insufficient membership shall be eligible in a central type credit union with the approval of the commissioner....</p>	
<b>Maine</b>	<p><b><u>Title 9-B: FINANCIAL INSTITUTIONS</u></b></p> <p><b><u>§814. Membership requirements</u></b></p> <p>1. Field of membership. "Field of membership" of a credit union means those persons, including non-natural persons, having a common bond of occupation or association; multiple groups of such persons, each group having a common bond of occupation or association within that group; residence or employment within a well-defined neighborhood, community</p>	



	or rural district; employment by a common employer or by employers located within a well-defined industrial park or community; membership in a bona fide fraternal, religious, cooperative, labor, rural, educational or similar organization; and members of the immediate families of such persons.	
<b>Maryland</b>	<p><b><u>§ 6-301. Formation of credit union</u></b></p> <p>Organization defined</p> <p>(b) Seven or more adult individuals, each of whom is a resident of this State, may act as incorporators to form a credit union under this subtitle with one of the following field of membership types:</p> <ul style="list-style-type: none"> <li>(1) Single common bond;</li> <li>(2) Multiple common bond; or</li> <li>(3) Community common bond.</li> </ul>	
<b>Massachusetts</b>	<p><b><u>General Laws Part I Title XXII - Chapter 171</u></b></p> <p><b><u>Section 9.</u></b></p> <p>The shareholders of every such corporation shall make and adopt by-laws, consistent with law, for the government of its affairs. The by-laws shall provide for and determine:</p> <ul style="list-style-type: none"> <li>... (c) The condition of residence, occupation or association which qualify persons for membership.</li> </ul>	
<b>Michigan</b>	<p><b><u>490.352 Domestic credit union; membership; composition; field of membership; application; approval by commissioner; revision; extension.</u></b></p> <p>Sec. 352.</p> <p>(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:</p> <ul style="list-style-type: none"> <li>(a) One or more groups of any size that have a common bond of occupation, association, or religious affiliation.</li> <li>(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.</li> <li>(c) One or more groups whose common bond is common interests, activities, or objectives.</li> </ul> <p>(3) One or more credit unions may serve 1 or more groups described in subsection (2).</p>	
<b>Minnesota</b>	<p><b><u>52.05 MEMBERSHIP.</u></b></p> <p>§ Subdivision 1. Requirements. ... Credit union organizations shall be limited to persons within one or more groups or any combination of groups having a common bond of occupation, association, or community.</p>	
<b>Mississippi</b>	<p><b><u>§ 81-13-13. Membership</u></b></p> <p>... Credit unions shall be organized within groups which have a common bond of occupation, association, or residence; provided that one (1) corporate central credit union sponsored by the Mississippi Credit Union League may accept as members the credit unions that are members of the</p>	



	Mississippi Credit Union League and shall include in its title the words "corporate central"; ...	
<b>Missouri</b>	<p><b><u>370.080. Membership of credit union, membership shares not to be pledged as security for loans. —</u></b></p> <p>2. A credit union shall be composed of one or more groups of persons. The members of each such individual group must share:</p> <p>(1) A common occupation, association, employer or;</p> <p>(2) A geographic area which may include all those persons who reside or work in a city not within a county or a county, in which the main office of the credit union is located as reported on the National Credit Union Administration (NCUA) 2006 year-end 5300 call report, and counties contiguous to such areas as may be approved by the director. The director shall not allow a geographic area credit union to expand beyond counties contiguous to a city not within a county or a county in which its main office is located. The director shall not allow a credit union to expand its geographic area due to a relocation of the credit union's main office.</p>	
<b>Montana</b>	<p><b><u>32-3-304. Membership defined.</u></b></p> <p>(2) Credit union membership may include groups having a common bond of similar occupation, association, or interests or groups within a well-defined neighborhood, community, or rural district or employees of a common employer and members of the immediate family of such persons.</p>	
<b>Nebraska</b>	<p><b><u>Chapter 21 Section 1743 21-1743 Membership; requirements.</u></b></p> <p>... Credit union organization shall be limited to groups of both large and small membership having a common bond of occupation or association, including religious, social, or educational groups, employees of a common employer, or members of a fraternal, religious, labor, farm, or educational organization and the members of the immediate families of such persons.</p>	
<b>Nevada</b>	<p><b><u>NRS 678.510 Eligibility for membership.</u></b></p> <p>... 2. The common bond required for membership in credit unions organized under the provisions of this chapter may include, but are not limited to persons who:</p> <p>(a) Have a similar occupation, association or interest;</p> <p>(b) Reside within an identifiable neighborhood, community or rural district; or</p> <p>(c) Are employed by the same employer, and members of the immediate families of such persons.</p>	
<b>New Hampshire</b>	<p><b><u>Section 383-E:3-301</u></b></p> <p>Agreement; Bylaws. — ... The organizer shall prepare bylaws to govern the credit union. The bylaws shall prescribe the name of the corporation, the purposes for which it was formed, the conditions of residence, occupation, or association which qualify persons for membership, the par value of the paid-in shares, the number of directors, the number of members of the supervisory committee, and the number of members of the credit committee, if such committee is to be established, the duties of the several officers, ...</p>	



<p><b>New Jersey</b></p>	<p><b><u>New Jersey Statutes 17:13-92. Membership of credit union;</u></b> regulations.</p> <p>14. ... b. Except as otherwise provided in this section, credit union membership shall be limited to the types of membership described in one of the following categories :</p> <p>(1) one group which has a common bond of occupation or association; or</p> <p>(2) more than one group with each group having within that group a common bond of occupation or association and a membership of less than 3,000 members at the time that group is first included within the field of membership of a credit union made up of more than one group; or</p> <p>(3) persons or organizations, or any combination of organizations within a well-defined neighborhood, local community or rural district; or</p> <p>(4) any combination of membership fields from paragraphs (1), (2) and (3) of this subsection b., provided, however, that the combining of membership fields pursuant to this paragraph shall only be used with respect to an existing credit union and only if, in the determination of the commissioner, it is found that the combination is necessary to maintain the safety and soundness of that existing credit union and, with respect to any group eligible to be part of a credit union pursuant to paragraph (2) or organization eligible to be part of a credit union pursuant to paragraph (3) of this subsection which is to be combined, the membership of that group or organization shall be subject to the same limitation on the number of members as provided for groups under paragraph (2) of this subsection; and</p> <p>(5) members of the immediate family of persons in a credit union or in any group or organization which makes up the membership of a credit union.</p>	
<p><b>New Mexico</b></p>	<p><b><u>58-11-21. Membership.</u></b></p> <p>... B. Credit union membership may include persons within one or more groups having a common bond of similar occupation, association or interest, or persons who reside or belong to one or more groups that are based within an identifiable neighborhood, community or rural district, or employees of a common employer, or persons employed within a defined business district, industrial park or shopping center and members of the immediate family of such persons.</p>	
<p><b>New York</b></p>	<p><b><u>N.Y. Banking Law 451-A – Qualifications for Membership</u></b></p> <p>1. Subject to approval of the superintendent, the membership of a credit union shall consist of persons within the credit union's field of membership who have been duly admitted members.</p> <p>(a) Persons:</p> <p>(1) within the same occupation or from multiple groups each representing a different occupation;</p>	



	<p>(2) within the same association or from multiple groups each representing a different association;</p> <p>(3) who reside, work, worship or attend school within a well-defined identifiable neighborhood, community or rural district and who, in the judgment of the superintendent, have such a community of interest as will ensure proper administration. For purposes of this section a "well-defined identifiable neighborhood, community or rural district" may consist of one or more adjacent precincts, districts, cities or counties; or</p> <p>(4) within a combination of these three categories described in this subdivision; ....</p>	
<b>North Carolina</b>	<p><b><u>§ 54-109.26. "Membership" defined.</u></b></p> <p>... (b) Credit union membership may include groups having a common bond of similar occupation, association or interest, or groups who reside within an identifiable neighborhood, community, or rural district, or employees of a common employer, and members of the immediate family of such persons.</p>	
<b>North Dakota</b>	<p><b><u>6-06-07. Membership in credit union.</u></b></p> <p>... 2. Credit union membership is limited to groups having a common bond of occupation or association or to groups residing within a geographic area that does not extend beyond a seventy-five-mile [120.70-kilometer] radius of the home office of the credit union. Except as provided by this section, an office of a credit union that has a field of membership defined by geography may not be located more than seventy-five miles [120.70 kilometers] from the credit union main office.</p>	
<b>Ohio</b>	<p><b><u>1733.05 Membership.</u></b></p> <p>... (C) The membership of a credit union shall be limited to groups having a common bond of occupation or association or groups within a well-defined neighborhood, community, or rural district; however, except as otherwise provided in the articles or regulations, a person shall be deemed to retain affiliation with the credit union so long as he remains a member of the credit union even though no longer within the field of membership.</p>	
<b>Oklahoma</b>	<p><b><u>Section 2007 - Membership - Central Credit Unions</u></b></p> <p>A. ... Credit union membership shall be limited to groups having a common bond of occupation or association, which shall be limited to one of the following categories:</p> <ol style="list-style-type: none"> <li>1. Groups that have the same common bond of occupation or association;</li> <li>2. Persons or organizations within a well-defined community, neighborhood or rural district; or</li> <li>3. Groups which have, as to each individual group, a common bond of occupation or association, but, as to all such groups, need not have the same common bond of occupation or association as other groups within the credit union.</li> </ol>	



<p><b>Oregon</b></p>	<p><b><u>723.172 Credit union membership:</u></b> rules.</p> <p>... (3) Credit union membership may include:</p> <p>(a) One or more groups, each having a common bond of occupation or association; or</p> <p>(b) Persons who live or work in, or organizations located within, a well-defined local community, neighborhood or rural district.</p> <p>(4) Credit union membership may also include any of the immediate family of a person who is eligible for membership in the credit union under subsection (3) of this section. For the purposes of this subsection, "immediate family" includes an eligible member's foster parent or legally appointed guardian.</p>	
<p><b>Pennsylvania</b></p>	<p><b><u>§ 701. Membership.</u></b></p> <p>(a) General rule.--Credit union organizations shall be limited to groups having a potential membership of 500 or more adult persons and having a common bond of association within a well defined community or rural district by reason of occupation or of membership in a religious congregation or fraternal or labor organization or residence within a well-defined community or rural district.</p>	
<p><b>Rhode Island</b></p>	<p><b><u>Universal Citation: RI Gen L § 19-5-2</u></b></p> <p>– Fifteen (15) or more citizens of this state who have associated themselves by a written agreement to form a credit union may, with the consent of the director or the director's designee, become a corporation upon complying with the provisions of §§ 7-6-33 – 7-6-35....</p> <p>Universal Citation: RI Gen L § 19-5-3 (2013)</p> <p><b>§ 19-5-3 Membership of credit unions.</b> – After organization of any credit union has been completed, nothing in this chapter shall be construed to debar from membership any fraternal organization, voluntary association, partnership, or corporation.</p>	
<p><b>South Carolina</b></p>	<p><b><u>SECTION 34-26-500. Requirements of membership; eligible groups; requirement of board approval.</u></b></p> <p>... (2) Credit union membership may also consist of groups having different common bonds of occupation or association or persons employed within a defined business district, building, industrial park or shopping center, and members of the family of such persons who are related by either blood or marriage.</p>	
<p><b>Tennessee</b></p>	<p><b><u>§ 45-4-301 - Membership -- Qualifications -- Entrance fee.</u></b></p> <p>(a) The membership shall consist of incorporators and persons, societies, associations, copartnerships and corporations that have been duly elected to membership and have subscribed to one (1) or more shares and have paid for the same in whole or in part, with the entrance fee as required by the bylaws, and have complied with other requirements that the certificate of organization may contain; except that a credit union shall be limited to groups having a common bond of occupation or association or to groups within a well-defined neighborhood, community, or rural district.</p>	

<p><b>Texas</b></p>	<p><b><u>Sec. 122.051. MEMBERSHIP.</u></b></p> <p>(a) A person may be a member of a credit union only if the person is an incorporator or other person who:</p> <p>(1) shares a definable community of interest, in accordance with the credit union's articles of incorporation or bylaws, including a community of interest based on occupation, association, or residence; ....</p>	
<p><b>Utah</b></p>	<p><b><u>7-9-3. Definitions.</u></b></p> <p>As used in this chapter:</p> <p>(1)(a)"Association" means a group of persons that:</p> <ul style="list-style-type: none"> <li>(i) constitute the members of a formal association organized for: <ul style="list-style-type: none"> <li>(A) an identifiable interest;</li> <li>(B) an identifiable purpose;</li> <li>(C) a specific profession; or</li> <li>(D) a specific occupation; or</li> </ul> </li> <li>(ii) are employed by a common employer.</li> </ul> <p>(b) "Association" does not include a group of persons that is:</p> <ul style="list-style-type: none"> <li>(i) identified or created primarily on the basis of a relationship between any person and: <ul style="list-style-type: none"> <li>(A) a consumer;</li> <li>(B) a customer; or</li> <li>(C) a client; or</li> </ul> </li> <li>(ii) created primarily for the purpose of expanding the membership in a credit union.</li> </ul> <p><b><u>7-9-51. Field of membership.</u></b></p> <p>(1) Except as provided in Subsection (3) or (5), the field of membership of a credit union may include only the following:</p> <ul style="list-style-type: none"> <li>(a) the immediate family of a member of the credit union;</li> <li>(b) the employees of the credit union;</li> <li>(c) residents of a single county;</li> <li>(d) one or more associations; and</li> <li>(e) residents of a city of the third, fourth, or fifth class or a town as classified in Section 10-2-301 if: <ul style="list-style-type: none"> <li>(i) the city or town is located in a county of the fourth through sixth class as classified in Section 17-50-501;</li> <li>(ii) at the time the residents of the city or town are included in the field of membership of a credit union, the credit union has not become a nonexempt credit union under Section 7-9-55; and</li> <li>(iii) approved by the commissioner in accordance with Subsection 7-9-52(6).</li> </ul> </li> </ul>	
<p><b>Vermont</b></p>	<p><b><u>§ 31401. Field of membership</u></b></p> <p>(a)(1) Except as provided in subdivision (2) of this subsection, the field of membership of a credit union is limited to:</p> <ul style="list-style-type: none"> <li>(A) a single common bond membership;</li> <li>(B) a multiple common bond membership;</li> </ul>	



	(C) persons or organizations within one or more well-defined communities, neighborhoods, municipalities, or counties; or (D) any combination of subdivisions (A), (B), or (C).	
<b>Virginia</b>	<p><b>§ 6.2-1327. Membership defined;</b></p> <p>... B. Credit union membership shall be limited to persons within a specified field of membership, individuals within the immediate family or household of such persons, associations of such persons, other credit unions, and employees of the credit union. The field of membership specified shall be composed of one of the following:</p> <ol style="list-style-type: none"> <li>1. A single group having a common bond of occupation or association;</li> <li>2. More than one group, each of which has a common bond of occupation or association, and each of which does not exceed 3,000 members at the time it is proposed to be included in a multiple common-bond credit union. The 3,000-member limitation shall not apply if the Commission determines that an exception on the grounds provided in subsection (d) (2) or (d) (3) of § 101 of the Credit Union Membership Access Act (12 U.S.C. § 1759) is appropriate. In making any determination under this provision, the Commission shall give consideration to the National Credit Union Administration guidelines; or</li> <li>3. Those persons or organizations within a well-defined local community, neighborhood or rural district.</li> </ol>	
<b>Washington</b>	<p><b>RCW 31.12.382 Limitation on membership.</b></p> <p>(1) Membership in a credit union shall be limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district. The director may adopt rules: (a) Reasonably defining "common bond"; and (b) setting forth standards for the approval of charters.</p>	
<b>West Virginia</b>	<p><b>§31C-4-1. Membership defined.</b></p> <p>... (b) Credit union membership shall be limited to, persons within one or more groups having a common bond or bonds of similar occupation, employer, association or interest, and members of the immediate family of such persons.</p>	
<b>Wisconsin</b>	<p><b>186.02 Incorporation, bylaws, amendment, fees.</b></p> <p>... (2) BYLAWS. ... (b) Credit unions shall be open to:</p> <ol style="list-style-type: none"> <li>1. Groups having common or related bonds of occupation or association.</li> <li>2. Except as otherwise provided in this subdivision, individuals who reside or are employed within well-defined and contiguous neighborhoods and communities. If the office of credit unions, subsequent to a credit union merger, determines that it would be inappropriate under the circumstances to require members of the credit union that results from the merger to reside or be employed in contiguous neighborhoods and communities, the requirement that these neighborhoods and communities be contiguous does not apply.</li> <li>2m. Individuals who reside or are employed within well-defined and contiguous rural districts or multicounty regions.</li> </ol>	

	<p>3. Employees of related or vicinal industries.</p> <p>4. Members of bona fide fraternal, religious, cooperative, labor, rural, educational, or similar Organizations and employees of the credit union.</p> <p>(c) Members of the immediate family of all qualified persons are eligible for membership.</p> <p>(d) 1. An organization or association of individuals, the majority of the directors, owners, or members of which are eligible for membership, may be admitted to membership in the same manner and under the same conditions as individuals.</p> <p>2. An organization or association that has a business location within any geographic limits of the credit union's field of membership may be admitted to membership.</p> <p>(e) An individual member who ceases to qualify for membership under the bylaws may retain his or her full membership in the credit union at the discretion of the board of directors.</p> <p>(em) A public depositor who makes a public deposit in a credit union may become a member of the credit union if the bylaws permit membership of public depositors.</p>	
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-End-

## Introduction and Comments - SB 2266 by Senator Erbele

### Rep. Louser and members of the IBL committee

I was asked by the ND state chartered credit unions to sponsor SB 2266.

To highlight a few of the proposed changes, SB 2266 would amend North Dakota Century Code at 6-06-07, Membership in credit union. This bill seeks to revise subsection 2 to clarify that a credit union can be made up of one or more groups having a common bond of occupation or association, or groups in a geographic area.

SB 2266 would allow individuals working or attending school within the geographic Field Of Membership (FOM) to join the credit union, in addition to the existing provision of "residing."

Currently, state chartered credit unions are limited to a 75 mile radius from the home office. Under SB 2266, state chartered credit unions would be able to apply for an expansion up to 125 mile radius of any office of the credit union.

#### Point #1

Today, North Dakota state chartered credit unions are disadvantaged in comparison to how federally chartered credit unions can operate. If North Dakota Credit Unions converted to federally chartered institutions, they could expand their Field of Membership to include the whole state.

#### Point #2

North Dakota credit unions want to preserve the State-Charter system and maintain local oversight from the North Dakota Department of Financial Institutions.

#### Point #3

As noted above, SB 2266 would expand the radius to allow credit unions to serve more rural communities and banking deserts. To remain viable, stabilize their asset base and diversify their loan portfolio, small credit unions need to be able to expand their FOM. Rural credit unions operating in dwindling population centers need to be able expand for safety and soundness.

#### Point #4

Expanding the Field of Membership for North Dakota state chartered credit unions to include individuals that work or attend school in the geographic area, in addition to residing, will allow the credit union to have similarity with federally chartered credit unions. More importantly, more North Dakotans will have financial service options to choose from, especially in our rural underserved communities.

**Please note** – this bill creates the pathway for FOM expansion; individual credit unions would still need to apply for FOM expansion to the ND State Credit Union Board and such application would be open for comment from other financial institutions, including banks and other credit unions. The criteria for being granted an expanded FOM is addressed in state administrative rules.

Jeff Olson from the Dakota Credit Union will provide some more background and specifics on why this modernization of our credit union statute is necessary.





Presented by: Sarah Getzlaff, CEO  
Security First Bank of North Dakota

Before: House Industry, Business and Labor Committee  
Representative Scott Louser, Chairman

Date: March 29, 2023

Chairman Louser and members of the House Industry, Business and Labor Committee, my name is Sarah Getzlaff. I am the Chief Executive Officer of Security First Bank of North Dakota with offices in Center, New Salem, Almont, Mandan and Bismarck. I am a 3<sup>rd</sup> generation community banker, born and raised in Center, ND following in the steps of my grandfather and father who have roots in New Salem. I currently live in Bismarck and work in Mandan. As a North Dakotan, a local small business owner and a community banker, I strongly oppose Engrossed Senate Bill 2266 and respectfully request a "Do Not Pass" recommendation from the Committee.

A little background – our bank is the only financial institution in all of Oliver County. Growing up in Center, which is the only town in Oliver County, I watched my dad support our community by donating his time to economic development boards, the housing authority, the 4H Premium Sale and many other local organizations. I saw the impact of the financial donations he directed to our school, to every church in town regardless of denomination and to almost every community event firsthand. I watched my dad meet with customers whenever and wherever they needed him. I clearly remember him leaving our house late one night to lend a customer cash out of his own wallet for a medical emergency. Just last summer, a friend of his complained about dancing in the dirt at the Oliver County Fair, so our bank donated a concrete dance floor. Stories like this were a constant part of my childhood and a tradition I am honored to continue. You only have to step inside a high school gym or attend the county fair to see that stories like this happen daily at community banks all across North Dakota.

One of the things I love about North Dakota is the overwhelming support for local businesses. We all know local business owners are not only investing in their communities through tax dollars, but through donations for every youth sport, the after-prom party, the county fair, etc. Local business owners are also spending a lot of time serving on church boards, school boards, economic development entities and so on. And, I think we can all agree that watching small towns lose their Main Street when Walmart or another non-local business moves in is heartbreaking – not only are you losing a local, Main Street businesses, but you are losing community volunteers. I know the credit union association represents both the biggest and smallest credit unions, but I have to wonder if this bill passes, if the local, small town credit unions who are in favor of this bill will actually become displaced or consolidated into one of the largest credit unions who are near to or over \$1 billion in assets? This would be a devastating unintended consequence.



I grew up listening to my dad discuss the uneven playing field with Credit Unions, and often wondered how we got here – so I did a little research. Congress created a national credit union charter in 1934 – per the act, “membership in individual credit unions was limited to groups having a common bond or occupation” or “to groups within a well-defined neighborhood or rural district.”<sup>1</sup> When the tax exemption was granted, credit unions were only allowed to having savings accounts (not even checking accounts) and to make small consumer loans. Since Congress intended credit unions to have a set purpose and a very limited business model, banks didn’t really seem to take issue with credit unions or their tax exemption until the 1970’s. So, what changed? In the 1970’s, the NCUA, the national regulator for credit unions was established as an independent agency. The NCUA quickly focused on credit union expansion – both in number of members and in products offered. “Where early on, people viewed credit unions in terms of helping lower-income people or as kind of a social-services agency,”<sup>1</sup> the NCUA saw them as much more. Since the 1970’s, the NCUA has continually expanded credit union authority – granting the power to open all types of deposit accounts, to make business and agricultural loans and to toss aside their original membership restrictions for arbitrary geographical boundaries, such as the 125 mile radius up for debate today. Since the NCUA has essentially turned credit unions into banks, but without going back to Congress to see if the tax exemption still makes sense, banks started to question why the government would allow such an uneven playing field.

I know none of us have any say over a national body like the NCUA, so this history may appear irrelevant and out of our control, but when you look at two local North Dakota businesses – say mine and a local credit union – which offer the exact same products and services – it’s important to understand why bankers are opposing further expansion – as we stand today, there are two main difference between credit unions and bank: 1. bank owners pay state and federal income taxes, in addition to payroll and real estate taxes, while credit unions do not. 2. Credit unions have limits on membership. We do have control over whether or not we loosen memberships restrictions and if we loosen them, that only leaves the tax difference.

While advocates say the tax exemption is still warranted as Credit Unions have a required mission to serve people of low-to-modest means and provide services in underserved areas. Community Bankers carry out this mission every day. Even though it’s not required by statute, it’s every community bank’s mission to serve its community and we do so every day regardless of income levels. It’s the North Dakota way and the right thing to do. While federal examiners have pushed for us to make credit decisions based on set criteria, we always have and always will push back for our customers and our communities. I recently approved a \$2,000 credit card for a ninety-year-old man without a credit score after another financial institution denied him, simply because he didn’t have a credit score. We have made countless loans under \$500.00 to consumers so they can pay their rent, buy their prescriptions or repair their vehicle – all without a loan fee and at a fair rate, regardless of credit score, simply because we know these people – they live in our communities and have strong character, just not the best financial situation.

Dakota Credit Union Association’s “Welcome Back General Assembly” email stated they “keep money in their communities instead of shipping profits off to Wall Street” implying we North Dakota bankers ship our profits off to Wall Street, which is simply not true. This statement is misleading. All but a few banks in North Dakota are community banks. Wells Fargo and US Bank might be the only exceptions and their presence is diminishing. Wells Fargo doesn’t even have Loan Officers in Bismarck anymore and is closing their north location. Our bank is a family-owned S Corporation with only a few shareholders – every single one of us pay Federal and North Dakota state income



taxes totaling at least a third, if not more, of our income. My bank's local ownership and payment of taxes to the Treasury and North Dakota's Tax Commissioner is not unique – there's the Beall family in Minot, the Streifel's in Powers Lake, the Marchell's in Grand Forks, the Pahlke's in Mandan, the Hoffner's in Beulah, the McLean's in Edgley, the Stenjehem's in Watford City. The banks I just named are only a handful of the local families who own community banks. Other local banks, such as Bravera Bank and Commercial Bank of Mott, are employee-owned, which means their profits stay in their communities as well.

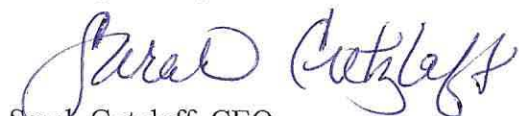
At first glance, increasing membership requirements from a 75 to a 125-mile radius seems fairly inconsequential. But, if this bill were to pass, it perpetuates the unchecked evolution of credit unions from their original focused purpose to full-service financial institutions. Offering identical products and services as North Dakota community bankers, but not paying a penny in taxes. Can you imagine if Target had to pay taxes, but Walmart didn't? If Representatives in the House had to pay income tax, but the Senators didn't? Or, if certain dentists, farmers, home builders or teachers had to pay taxes, while others providing the same exact same services didn't? It's not right. SB 2266 is viewed by some as simply helping the smaller credit unions compete, but it will undoubtedly deepen an already significant competitive gap between banks and credit unions, and likely benefit the growth of larger credit unions, not small ones.

As for whether or not banks make a profit? Yes, we absolutely do. Making a profit is essential to every healthy business. We need a profit to grow, to invest in and support the communities we serve, to increase our reserves for loan losses and like any other for-profit small business, for shareholder return. And, as a for-profit small business, we have an incentive to manage our expenses. With a 25-40% tax advantage, do we know if credit union returns are flowing through to members, or to increased salaries and unessential expenses?

I'll leave you with one last thought – if our bank makes a loan with a 5% interest rate, once you deduct the 35% we pay in taxes, our tax equivalent rate is 3.25%. If a credit union charges a rate of 3.5%, the consumer is getting a better deal and as a bank we appear overpriced because most don't understand the tax disparity, but the credit union is actually making a greater net profit at 3.5% than we are at 3.25%. Or, in simpler terms if we charge a dollar, we have 65 cents left, whereas a credit union could charge 80 cents and still have 80 cents left. They can honestly say they have saved the consumer money and forced us to bring our prices down, but you have to look at the whole picture - their costs are lower. The expansion of credit union geographic membership requirements means less tax dollars are going into our state and local communities and *that* affects all tax paying citizens, even the one who just saved 20 cents.

Chairman Louser and members of the House Industry, Business and Labor Committee, as a local, tax-paying North Dakota business owner, I respectfully request the committee not ammend the bill further and give a "do not pass" on Engrossed Senate Bill 2266.

Thank you for your time and attention.



Sarah Getzlaff, CEO  
Security First Bank of North Dakota





## Senate Bill 2266

Presented by: Barry Haugen, President  
Independent Community Banks of North Dakota ("ICBND")

Before: House Industry, Business, and Labor Committee  
Representative Scott Louser, Chairman

Date: March 29, 2023

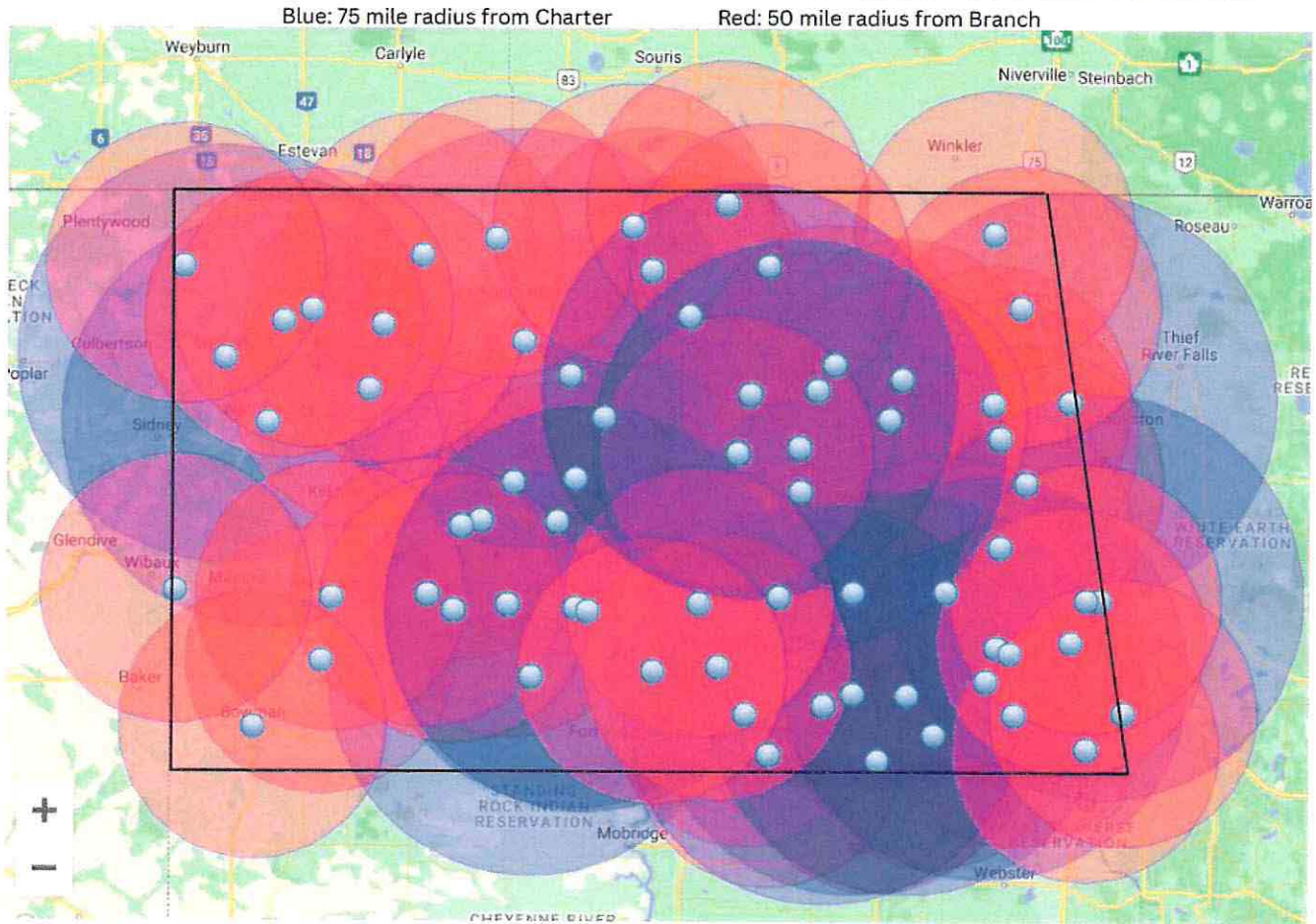
Chairman Louser and members of the House Industry, Business, and Labor Committee (Committee), my name is Barry Haugen, and I am President of the Independent Community Banks of North Dakota (ICBND). ICBND strongly opposes Engrossed Senate Bill 2266.

ICBND membership totals 50 independent community banks throughout our state. 30 of those charters are in communities of less than 4500 citizens. Only one of ICBND's members is a publicly traded entity. The other 49 are closely held with most being family-and-employee owned.

Engrossed SB 2266 seeks to significantly alter the credit union membership section of North Dakota Century Code in the interest of relatively unfettered expansion for certain credit unions at the expense of credit unions that may wish to protect their service area. And passage of this bill would certainly infringe upon the tax paying community banks that have effectively served their communities as Main Street stalwarts for decades. We believe allowing for the further expansion of not-for-profit, nontax paying entities is not good public policy.

The map at the top of the 2<sup>nd</sup> page of my testimony gives a graphic representation that certainly questions the need for this legislation. It shows that the 19 state-chartered credit unions and their 111 branches, under the rules as they currently exist, have done an exemplary job of covering the state of North Dakota with respect to fields of membership. There are no areas of North Dakota where a citizen can not be a member of a state-chartered credit union and in most cases, citizens have multiple options for membership. And again, this graphic represents only state-chartered credit unions and does not include any of the 13 federal-chartered credit unions or their branches. We're not challenging the world as it is today. We are, however, adamantly opposed to the proposed expansion. Quite simply, the legislation enacted by your predecessors during the 2005 Legislative Assembly is working as represented by the map.

## ND Chartered Credit Unions ONLY - Current Coverage 75 Mile Radius From Charter - 50 Mile Radius From Branch



Engrossed Senate Bill 2266 proposes to change the geographic radius of membership from **75 miles from the credit union main office to 125 miles**. Linearly, this of course is a 50-mile increment. But from an aerial expansion perspective (in other words, the field of membership “footprint”), this is a **near tripling** of the service area of each and every North Dakota credit union charter.

If passed, this legislation would further tilt the already uneven and inequitable playing field that exists in the state as it relates to the two primary industry groups providing financial services – (1) credit unions who pay no federal or state income taxes and are not subject to the full set of regulations that community banks face, including Community Reinvestment Act rules; and (2) tax paying banks.

The credit union tax exemption is based on an outdated 100-year-old law that has never been revisited. Since that time, credit unions have become larger, more complex, and bank-like in their size, powers, product and service offerings, and fields of membership. With these changes, they’ve also assumed more risk. Credit unions were chartered by Congress to enable people of small means with a “common bond” to pool their resources to meet their basic deposit, savings and borrowing needs. While some credit unions operate that way today, this bill seeks to grow the membership and markets of other credit unions well beyond their statutory mission.



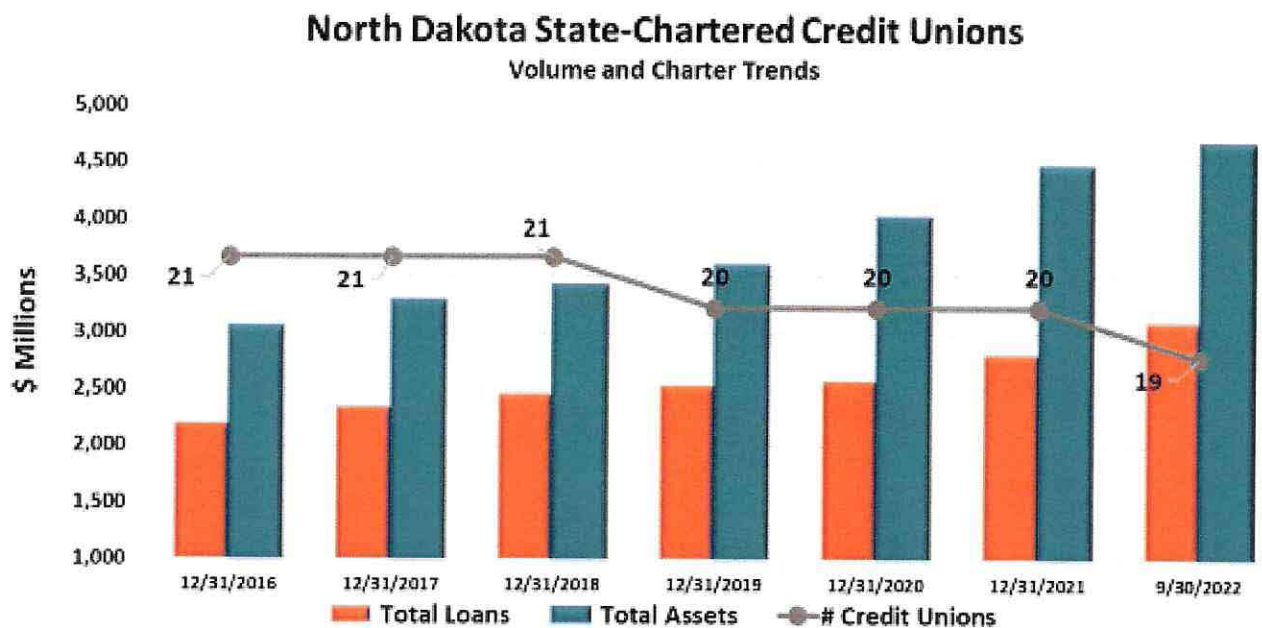
The Community Reinvestment Act (CRA) rules require banks to help meet the credit needs of the communities in which they do business, including low-and moderate-income neighborhoods. Credit unions are exempt from these rules presumably due to their intended membership by “common bond or occupation or association, or to groups within a well-defined neighborhood, community, or rural district”. A 125-mile radius, which equates to nearly 50,000 square miles, for membership does not fit that intent. Tim Karsky will give you some perspective on the costs that his bank alone incurs relative to this singular regulation.

Credit unions should not be allowed to have it both ways. They want to keep all the tax and regulation exemptions of the original intent but cast off any geographical limitations that provided for those exemptions. The bargain made for federal and state income tax exemption rightfully comes with restrictions – field of membership being one.

Speaking of taxes, based on the FDIC’s year-end 2022 data and applying the appropriate income tax rates, the income produced by North Dakota-headquartered banks will result in nearly \$30 million of income tax revenue for the state of North Dakota in 2023. Credit unions will pay zero.

Given this background, I now go back to my original question when this legislation was introduced - what is this bill trying to solve? I’ve already shown graphically that there are no “financial service deserts” in the state for state-chartered credit unions. So, then my next question is whether the growth of credit unions has somehow been stymied by its field of membership rules in state code.

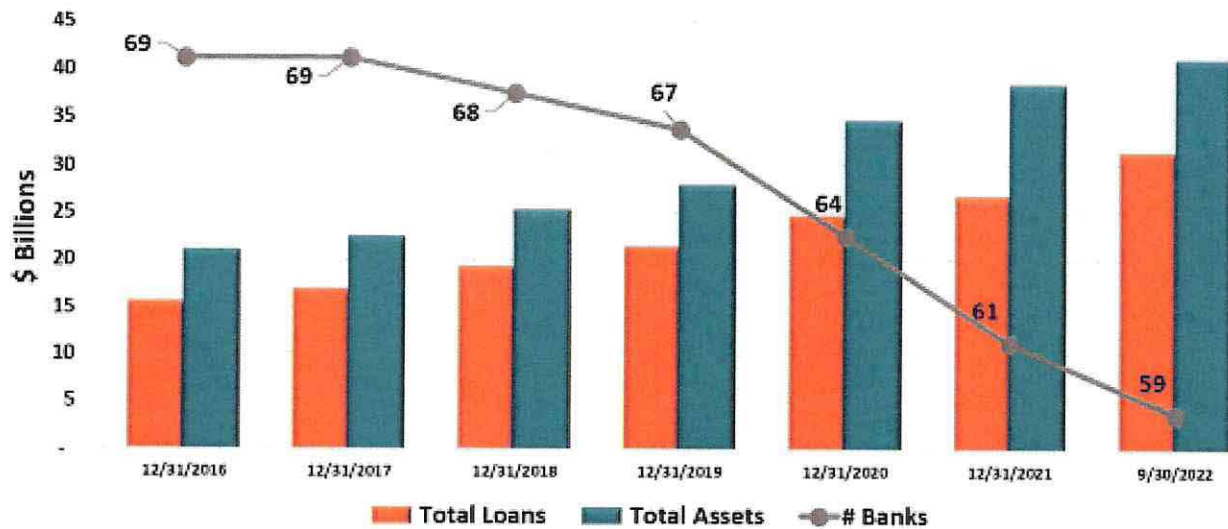
The data would indicate there have not been growth constraints on credit unions. Quite the opposite in fact. North Dakota Department of Financial Institutions, in their budget bill testimony, reported that the total assets of state-chartered credit unions grew by 18 percent from 12/31/2020 through 12/31/ 2022. By comparison, state-chartered banks grew total assets by 17 percent over the same period.





## North Dakota State-Chartered Banks

### Volume and Charter Trends



Source: North Dakota Department of Financial Institutions

Again, the graphs above me indicate that the total asset growth rate of financial institutions in North Dakota has been robust over the last two years and even slightly more robust by credit unions. While the number of state-chartered banks have declined by 10 since 2016, the number of state-chartered credit unions have declined by only two while credit union branches have grown by 14 locations to 111 across the state.

You've heard the threat from proponents of this legislation that the field of membership rules enacted following the 2005 Legislative Assembly have hamstrung the growth of state-chartered credit unions and may force consideration of federal chartering. The 18 percent growth in total assets over two years of those same credit unions would lead me to believe growth has not been hampered. Also, if that were the case, why haven't more credit unions already converted, or begun the process to convert, to federal charters? The 19 state-chartered credit unions account for over \$4.7 billion in total assets at year-end 2022. Their 13 federal counterparts in North Dakota accounted for less than one-tenth of that amount, or about \$460 million in total assets. Choosing a primary regulator is a weighty decision and field of membership is just one aspect of that decision-making process. Remember that the NCUA, in their draft 2023 strategic plan, strongly encouraged credit unions to adjust or limit their ag lending. I suspect that such a regulatory philosophy does not work well for North Dakota credit unions.

In conclusion, as I see it, none of the data presented would indicate impediments to growth for credit unions in the state which brings me back again to the question – what is this bill trying to solve?

Chairman Louser and members of the House Industry, Business, and Labor Committee, ICBND sees no legitimate public policy reason to pass this legislation and respectfully requests that the Committee not amend the bill and place a "do not pass" recommendation on Engrossed Senate Bill 2266. Thank you for your time and attention.

**Testimony in Regard to  
Senate Bill No. 2266**

Thank you for the opportunity to speak in favor of Senate Bill 2266 today. My name is Bob Herrington President/CEO for North Star Community Credit Union. I am excited to finally see a bill introduced to modernize the State's field of membership (FOM) requirements. The current FOM requirements are some of the most restrictive in the nation and serve only to limit our ability to provide affordable financial solutions to more ND citizens.

North Star Community Credit Union (NSCCU) is a member owned financial cooperative that was first chartered in 1940 as Benson County Community Credit Union in Maddock, ND. We, like many credit unions started in the aftermath of The Great Depression. A time when the average American did not have access to affordable financial services. Traditional financial institutions were either not interested in serving the average American or were not trusted by the average American. This led to the Federal Credit Union Act of 1934. The purpose of the law was "to establish a further market for securities of the United States and to make more available to people of small means credit for provident purposes through a national system of cooperative credit, thereby helping to stabilize the credit structure of the United States".

It has been argued by some that credit unions are less regulated than banks because the Community Reinvestment Act of 1977(CRA) does not apply to them. CRA was enacted "to encourage financial institutions to help meet the credit needs of the communities in which they do business, including low- and moderate-income neighborhoods." Credit Unions were not included because we were already doing those things and didn't need to be forced into serving our members or communities.

The attached chart and field of membership verbiage from neighboring states clearly highlights the reason credit unions in those states have added members significantly faster than ND. These other states have codified a much more general "well defined" language and then allowed state regulators to regulate the industry and approve FOM expansion based more on the safety and soundness of the requesting credit union. Compared to North Dakota where the Century Code has been weaponized to limit competition and deny ND citizens expanded access to financial services.

There have been other visual aides circulated that show that credit unions cover the majority of the state and therefore don't need an expanded FOM. This assumes that potential members are willing to drive 75 miles to a credit union branch. Does that sound reasonable? It also assumes that all credit unions are the same, but we are not. Credit unions have different specialties and even risk tolerances just like banks do and one credit union might be a better fit for someone than another. ND residents can choose from dozens of local and regional banks, so why limit them to only a few credit unions?



For the past 83 years North Star has served its membership and their communities by providing affordable loan, and deposit products. In 2022 we originated \$185MM in Agricultural, Small Business and Consumer loans. We have expanded to many ND communities of all sizes and continue to serve communities with populations as small as 69 people (Butte ND). Towns like Butte and Willow City would not have local financial services without North Star. In 2002 we established a branch in Bottineau ND and were granted a 50-mile FOM around that new branch. We would not be able to do that under current FOM requirements. Today that branch serves 3100 members and originated over \$16MM in consumer loans in 2022. Many of these are small balance loans that some financial institutions simply won't do. Who would serve those ND residents if we had not been allowed to expand in 2002?

I am not here today to convince you to join a credit union, although you really should. Whether or not a credit union is right for you is an individual decision. But I am here to ask you to advance the bill so that hopefully more people can make the decision for themselves.

This bill is about allowing State chartered credit unions like North Star to have more flexibility to serve the fine citizens of ND and offer more of them affordable financial services daily.

This bill is about allowing more ND citizens the option to choose from more financial services options.

This bill is about maintaining a strong State chartering system by closing the gap between the North Dakota requirements and those of federal credit unions regulated by the NCUA. Some have asked, "why not just convert to a federal charter?" North Star is proud of our State and its chartering system. We believe that local governance is always better than federal governance. However, we also need the flexibility to expand and grow. Without modernization of the current FOM requirements, North Star and many other credit unions will have to strongly consider converting to a federal charter.

This bill is about competing on a more level playing field with banks and federally chartered credit unions. To those that oppose this bill based on the competition it creates I say:

- Serve your customers and a credit union won't have to.
- Invest in your communities and a credit union won't have to.
- Provide easy access to affordable financial services and a credit union won't have to.

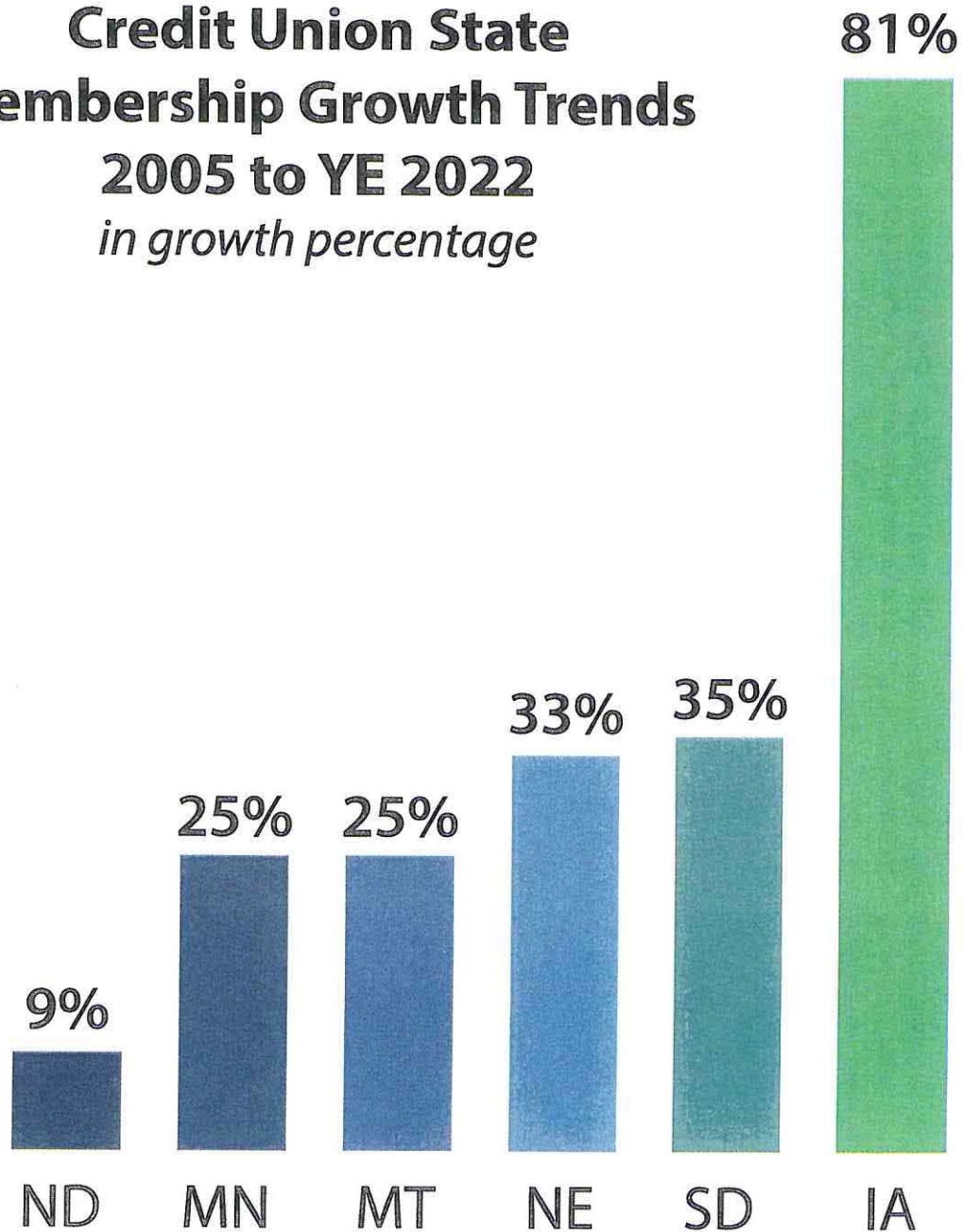
Thank you for your time today. I respectfully request this committee vote do pass on SB 2266.

Respectfully,

Bob Herrington CEO  
North Star Community Credit Union



**Credit Union State  
Membership Growth Trends  
2005 to YE 2022**  
*in growth percentage*



*Data compiled by the Credit Union National Association  
& The National Credit Union Administration*

## **Minnesota**

Credit union organizations shall be limited to persons within one or more groups or any combination of groups having a common bond of occupation, association, or community.

"Community" means an identifiable local neighborhood, community, rural district, or other geographically well-defined area in which individuals have common interests or interact. "Well-defined" means the proposed area has specific geographic boundaries, including a school district, city, township, county, or clearly identifiable neighborhood, but does not include the state as a whole.

includes live or work - Field of membership amendments, that parallel those allowed federal credit unions, are permitted based on parity provisions of Minnesota Statutes, Section 52.04, subd. 3 and membership qualification provisions of 53.05, subd.

## **Montana**

Groups within a well-defined neighborhood, community, or rural district

## **Nebraska**

Credit union organization shall be limited to groups of both large and small membership having a common bond of occupation or association, including religious, social, or educational groups, employees of a common employer, or members of a fraternal, religious, labor, farm, or educational organization and the members of the immediate families of such persons.

## **Iowa**

Residence within specified geographic boundaries - Community common bond shall be based on residence, employment or principal place of business in a specific geographic boundary - bylaw - "persons who reside in or who work for an entity in"

A clearly defined description of the area to be served, i.e., the geographical boundaries, which is recognized as a distinct "community." Normally, the area will be a singular or contiguous community, i.e., city(ies), county(ies), with common borders. When an area requested is not contiguously located, a credit union may be required to demonstrate the need and ability to provide services to this area, and to document, after receiving approval, that the service being provided the community is supported by the residents and employees of the area.

Chairman Louser, members of the House IBL Committee, I am Tim Karsky, Executive Director of Correspondent Banking at Choice Bank, and I am a former FDIC examiner; and with the State of North Dakota, I was Chief Examiner - Banks, Assistant Commissioner and Commissioner for the Department of Financial Institutions. While at the DFI, I served as Chairman for both the State Credit Union Board and State Banking Board (2001 to 2010). I am here today to ask you to give a DO NOT PASS, for Engrossed SB 2266.

As you are aware, the bill will give state-chartered, community-based credit unions a 125-mile radius of the credit union for a "field of membership". The radius will be from the home office in the Engrossed bill as amendments were added to the original bill.

I do not have any problems with credit unions opening a branch in their current field of membership to serve their current customers but I do not see any reason to expand their Field of Membership further. I do not believe there is any citizen in North Dakota that does not have access to a credit union or several credit unions. I also wonder if the expansion by larger credit unions will have a negative impact



on the smaller credit unions in North Dakota. Again, nobody has really given a good reason why this bill is needed.

One of the main reasons for the dual banking and credit union systems is to allow states to regulate the charters in their individual states. There are many laws that are different between state and federal credit unions and the individual credit union decides under what charter they would like to operate under and whom their regulator will be. Many pick the state charter because of a regulator they have access to and knows their individual states economy and the types of business that is conducted. I am sure the state credit union examiners understand the agricultural economy better the national examiners. I have heard the threat about changing charters many times over the years when I was a both the Assistant Commissioner and Commissioner. Some state charters switched to a federal charter and some federal to a state. That is what makes the system work. I personally believe that every credit union organized had the option of being a state or federal charter and knew the difference in the field of membership at that time.

In regard to membership, I do believe credit unions should have a well-defined field of membership, and I think the amendments in 2005 gave them what was needed and it also stopped the leap frogging across the state by branching. I felt

these changes made the Departments of Financial Institutions handling of the applications easier and eliminated the threats of legal action by the banking industry.

One last comment is that banks have to comply with CRA, the Community Reinvestment Act while state-chartered credit unions are not examined for this law. Our bank is subject to a very strict examination of this law (separate examination). If we get a poor rating in this examination, we may not be able to merge or branch until we get a better rating. We currently budget \$450,000 just in CRA donations to help meet the requirements of the law. In addition, we have one full time employee and some part time help in this area. In just direct salaries, travel, and training this adds another \$125,000. This would not include the mandatory training for all employees and the time keeping track of these loans and the cost of outside audits. It is very costly and time consuming. There are also other federal laws and regulations that apply to and impose costs on state and national banks that do not apply to credit unions.

If credit unions want to continue to expand their powers and membership area, I think we should consider treating them like a bank. All I want is to compete fairly. I have lost business loans because a credit union has underpriced my bank, and if

they had to bear the additional operating costs that banks incur credit unions would have a less of an advantage. When this happens, my bank's earnings decrease and so does our tax liability, which in turn decreases revenue for the state of North Dakota.

Thank you for the opportunity to testify today and I would be happy to answer any questions you may have.

Tim Karsky

Executive Director of Correspondent Banking, Choice Bank



**Senate Bill 2266 Testimony**

Presented by: Jordan Nelson, Chief Financial Officer  
Peoples State Bank of Velva (ND)

Before: House Industry, Business and Labor Committee  
Rep. Scott Louser, Chairman

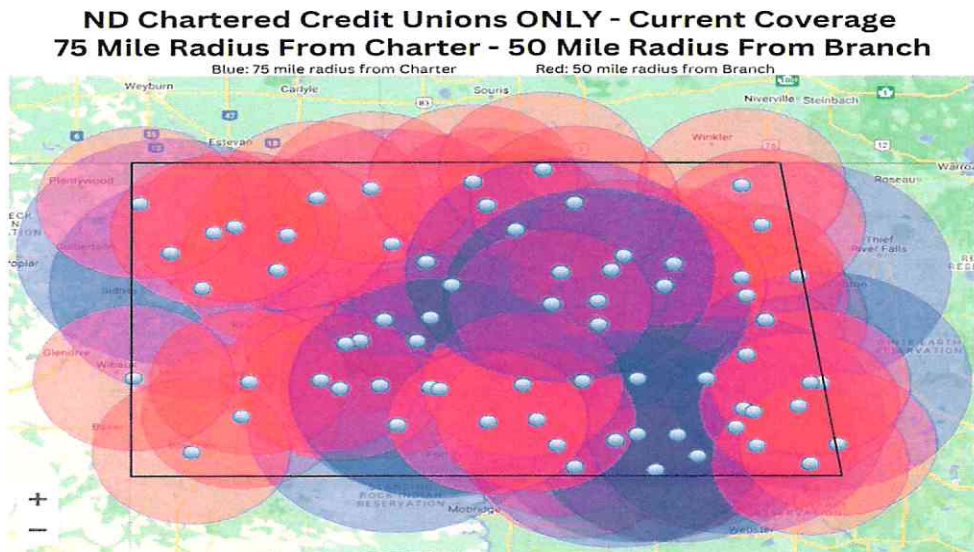
Date: March 29, 2023

Chairman Louser and members of the House Industry, Business and Labor Committee (Committee), my name is Jordan Nelson, and I would like to thank you for the opportunity to speak with you today regarding Senate Bill 2266 and some of the concerns I have on this proposal. I am a life-long North Dakota native, and a current resident of legislative district 38. Due to my concern for the unintended tax and public policy consequences I see this bill creating, I stand before you to respectfully request a "Do Not Pass" recommendation.

This bill, as amended by the state senate, the state-chartered field of membership (FOM) radius would increase by 50 miles from 75 to 125 miles. When looking at the credit union association website, they list seven reasons why this bill is needed.<sup>1</sup> If I may, I'd like to take a few minutes to look at the points made by the DCUA on this issue.

**Points 1 and 2: North Dakota is "not open for business" to state chartered credit unions and that they are being "left behind"**

This argument certainly tugs at the heart strings, but when looking at the map of the current network of state-chartered credit unions and their fields of membership, it doesn't hold water. Indeed, the map below shows that there is not a single acre of the state of North Dakota that does not lie within a state-chartered credit union FOM as currently constructed under century code.



Between the robust branch network that state-chartered credit unions currently employ, and modern day online and mobile platforms, it has arguably never been easier for a citizen of North Dakota to be an active and participating member of a North Dakota headquartered credit union! For credit union members across this state, that's a great thing!

### **Points 3: Protecting financial choice in North Dakota**

The DCUA website discusses protecting "financial choice" for North Dakotans as an argument for this bill. We often hear talk about "financial deserts" that exist in other parts of the country. We have 64 banks (only one of which is over \$5 billion in assets) and 31 credit unions (18 state chartered) that call North Dakota home.<sup>ii</sup> Per capita, that is one insured financial institution for every 8,157 residents of the state. This is almost 75% less than the national per capita figure of one insured financial institution for every 34,867 residents of the US.<sup>iii</sup> I don't want to take you too far into the weeds on these numbers, but I present them to simply make the argument that access to financial services and financial choice in our state is great AS IT CURRENTLY STANDS under existing state law, and frankly I think that the vibrant spirit and culture of both North Dakota community banks and credit unions has everything to do with this.

### **Point 4: Allowing ND credit unions to remain relevant and competitive**

This is certainly an interesting argument for the credit union industry to make, and competitive apprehension is certainly something felt by many financial institutions within our state, but is this as much of an issue as the credit union industry is making it out to be? I was interested to see how "un-competitive" these institutions have been recently, so I did a little digging. I pulled call reports and financial profiles from the NCUA "Research a Credit Union" website for the five largest state-chartered credit unions to take a very informal look at their overall financial performance.<sup>iv</sup> You may be asking why I used the top 5? It's my opinion that these credit unions are likely to be the most significant beneficiaries of this bill if passed. In reviewing the results, this is what I found:

Aggregate 2022 asset growth rate: 7.43%

Aggregate 2022 shares (i.e., deposits) growth rate: 4.14%

Aggregate 2022 return on average assets: 0.86% (Four of the five met or exceeded their peer figure).

For banks under \$10 billion in the state, the results are as follows (courtesy of QwickRate<sup>v</sup>):

2022 asset growth rate: 2.94%

2022 deposit growth rate: 2.86%

2022 tax-affected return on average assets: 0.94%

In reviewing those figures, the argument that the most aggressive state-chartered credit unions can't compete just simply doesn't hold water. Credit Unions performed very favorably in 2022, and I don't believe that to be a one-year anomaly. These are complex, well managed institutions that will likely continue to grow whether their FOM is expanded or not. The vehicle for this growth may change depending on the action taken on this bill, but the result likely will still be a pattern of significant growth for the largest state-chartered credit unions.

**Point 5: Credit Unions: "The original financial protectors and financial first responders."**

The fifth argument that are made by the DCUA is that credit unions aren't driven to enrich investors, but rather they do right by their members. I'm not doubting that, however it comes off a bit "self-righteous" and paints a false picture of how our state's community banks serve their communities. As an unapologetically community focused bank, Peoples State Bank of Velva (PSB) has an absolute core belief that the only way that the bank will flourish is if our main streets and family farms also flourish! The competitive landscape for banking dictates that we must treat our customers well, or they'll find another bank (or credit union) that will treat them better. Simply put, relationships matter to us! Now it is true that we may operate with the intent of turning a profit, which we must do to generate the capital needed to safely run a bank, but when did that become such a bad thing? As a "dyed in the wool" capitalist, it's always been my belief that we want our small farms and businesses of the state to turn a profit so those profits can be re-invested back into our communities! Banks and their shareholders (most of whom call North Dakota home) routinely give hundreds of thousands of dollars of this profit to charitable initiatives in the communities they serve. Some of that is required by the Community Reinvestment Act (which Credit Unions do not have to follow, by the way)<sup>vi</sup>, but the main purpose for this philanthropy is for banks to add value to the communities they serve. I've been to most communities in North Dakota, and the contributions of our state's banks are absolutely apparent! These banks also pay income taxes into the state's coffers. To give a more specific illustration that pairs with the testimony you just heard from Barry Haugen, the owners of Peoples State Bank of Velva paid over \$70,000 in state income tax in 2022. We can have the taxation argument between banks and credit unions until the cows come home, but the fact of the matter is that the state income taxes paid in by C-Corp banks and S-Corp bank owners is a significant difference, and those dollars are utilized by our state to enrich the lives of everyone who calls North Dakota home.

**Point 6: Credit Union charter numbers are decreasing**

The sixth argument that was made by the DCUA referred to credit union numbers decreasing. I think this is true in many different facets of our state. Compared to 2005 (the date used by DCUA to compare credit union numbers), it's undoubtedly true that fewer schools, grocery stores, medical facilities, churches, grain elevators and even banks exist in the state today (to name just a few industries and groups). This is a challenge that existed before 2005, and it unfortunately won't go away with the passage of this bill. The fact remains that state-chartered credit unions (and banks for that matter) are free to construct branches in every small town that dots our landscape. Doing that is a decision for bank and credit union boards of directors that undoubtedly blends customer/member service with economics.



**Point 7: Credit Unions are not a threat to community banks.**

The final argument that DCUA makes is that credit unions are not a threat to community banks. They make the argument that they hold just 10% of the market share on deposits. Now as a tax-exempt entity I would expect credit unions to use those savings to pay significantly higher rates on deposits than taxpaying banks, however in my nine years of serving as the CFO of my bank, I have not found that to be the case. In fact, as of Thursday, March 23 PSB and Dacotah Bank had the highest yielding CD rate of any bank or open charter (federal and state) credit union in Minot or Velva<sup>vii</sup>. As the CFO of PSB, I oversee deposit pricing for the bank and negotiating rates with customers. Substantially all the calls that I get that pressure me on deposit rates come from customers being quoted rates by either community banks in our market or products offered by investment advisors. The DCUA also states that credit union membership in ND has grown by less than 8% since 2005, while nationally it has grown by 54%. I tend to think that this might just be due to the fact that our North Dakota's community banks do a better job of serving our communities than our counterparts do in other states with a large bank dominated landscape. With the access that our citizens have to state-chartered credit unions, I find it rather hard to believe that FOM restrictions are the cause of this problem.

Credit unions and banks perform largely identical functions nowadays thanks to regulatory changes that have been pushed through at both the federal and state levels over the years. Bills like this serve to tilt the playing field away from an income tax-paying industry toward an industry that does not pay state income tax. Our governor has been a big proponent of reforming our state's individual income tax system to provide relief to everyday North Dakotans. This bill would seem to run counter-productive to that initiative out of the governor's office. If the elimination of income tax for the majority of North Dakotans is a priority, then it is my opinion that we should be looking at ways to allow tax paying industries in the state to blossom to pick up some of the slack! If this bill passes, I have full confidence that the banks in our state will continue to compete and compete well just as they have for many decades. But this income tax preference will continue to weigh on their bottom lines, and less profit means less income tax owed to the state treasury.

When considering all these factors, it is easy to see in my eyes that many of these "stylish" arguments made by the credit unions fall a little short on "substance." Financial choice is not a shortfall of our state but rather a strength that we should celebrate! I think it is easy to see this in looking at who testified in favor of this bill in the companion senate hearing back in February. By my count every person who entered testimony was either a current or former financial institution employee (or spouse), a trade association director or a lobbyist. Not one consumer testified on either side of this bill. That's indicative of a bill that is a solution to a problem that does not currently exist in our state, and to me passing unnecessary laws is a textbook example of poor public policy. For those reasons I would respectfully urge no further amendments and a "do not pass" recommendation from this committee. Thank you so much for your time and attention to this bill, and I wish you all the best as you continue to progress through this legislative session.

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<sup>i</sup> [NDFOMModernization - DAKOTA CREDIT UNION ASSOCIATION \(dakcu.org\)](https://www.dakcu.org/NDFOMModernization)

<sup>ii</sup> [NorthDakotaStatePerformanceReport.pdf \(qwickrate.com\)](https://www.qwickrate.com/NorthDakotaStatePerformanceReport.pdf)

<sup>iii</sup> FDIC insured banks in the United States – 4,706 (From the 2023 Volume 17 Number 1 FDIC Quarterly), NCUA insured credit unions – 4,813 (NCUA Quarterly Credit Union Data Summary 2022 Q3), US Population Est. 331,900,000.

<sup>iv</sup> [Credit Union Locator & Research a Credit Union | NCUA](https://www.ncua.gov/credit-union-locator)

<sup>v</sup> [NorthDakotaStatePerformanceReport.pdf \(qwickrate.com\)](https://www.qwickrate.com/NorthDakotaStatePerformanceReport.pdf)

<sup>vi</sup> [Community Reinvestment Act Fact Sheet \(occ.gov\)](https://www.occ.gov/community-reinvestment-act)

<sup>vii</sup> As part of my job I analyze local deposit rates on a monthly (or more often if needed) basis to ensure the bank pays a competitive rate on our interest-bearing products. Failing to do so could result in deposit “flight” which, if severe enough, could endanger the safety and soundness of the bank.

Prepared by Dakota Credit Union Association

**PROPOSED AMENDMENT TO SB 2266**

Page 1, line 14, replace the second "or" with "and"

Page 1, line 23, strike "geographic"

Page 1, line 24, strike "geographic"