

**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.

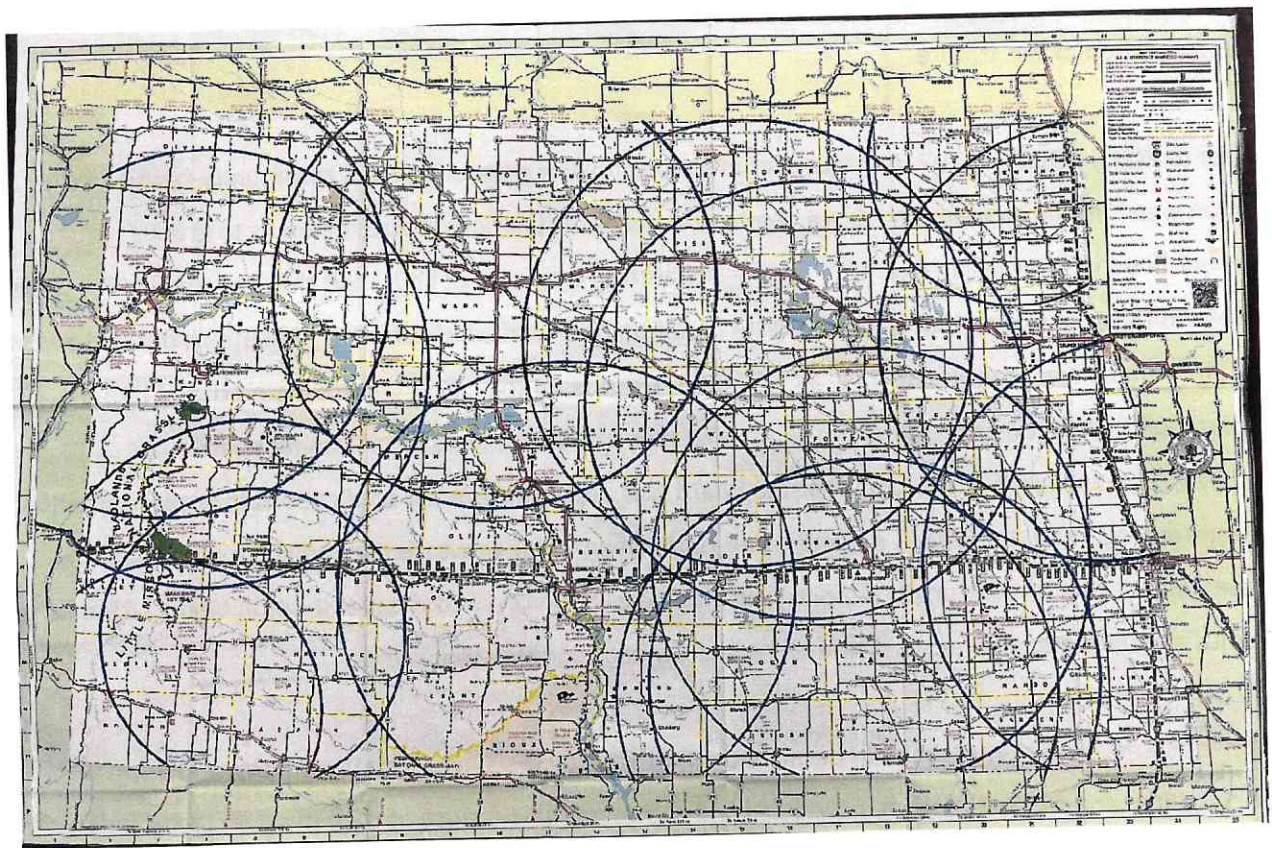
In 2005, the Legislature passed SB2263, which was a joint effort by the North Dakota Bankers Association and the North Dakota Credit Union League to better define the field of membership for state chartered, community credit unions. The main purpose was to remove the ambiguity and provide clarity in 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.

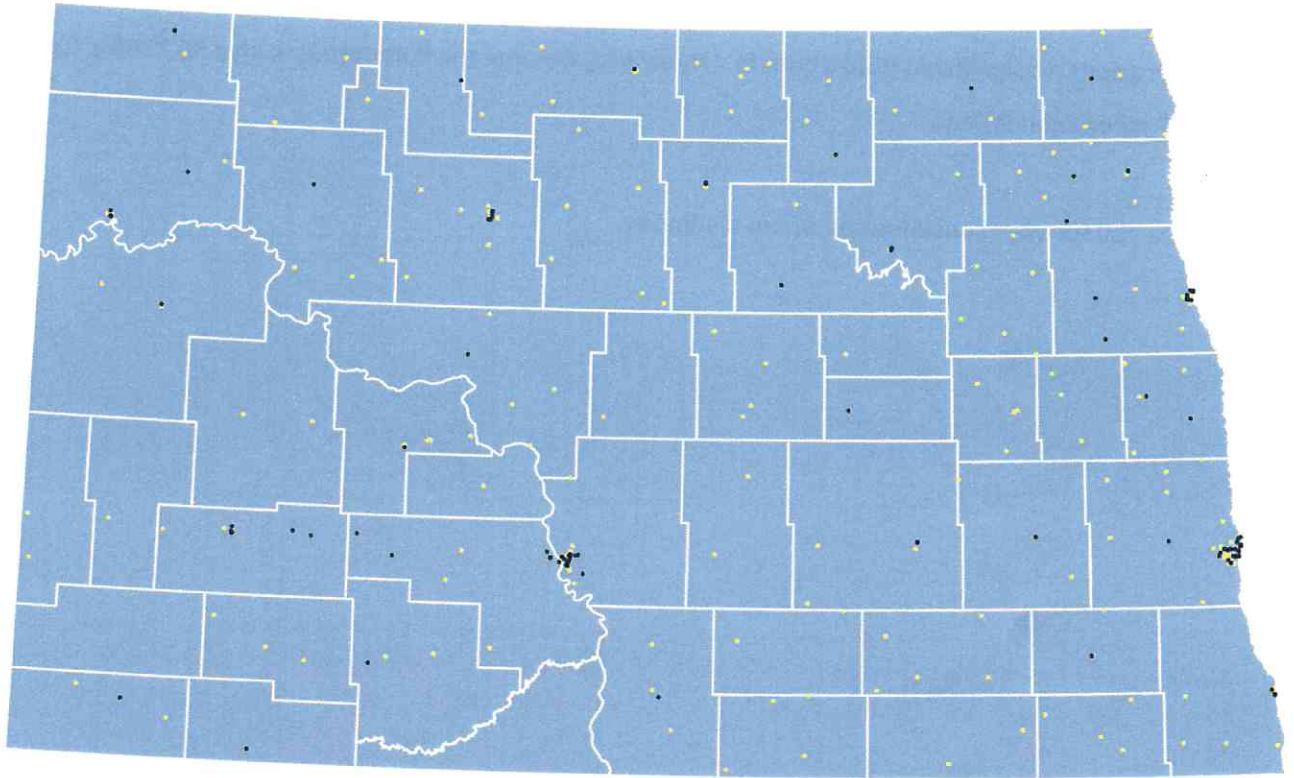


This map shows the area of state coverage the 75-mile FOM radius provides. Note – this is not inclusive of all community credit unions FOM or branches.



# 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.