

1999 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1099

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1099

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-11-99

Tape Number	Side A	Side B	Meter #
2		x	19.5
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes:

HB 1099 CORRECTIVE ACTIONS CONCERNING UNDERCAPITALIZED CREDIT UNIONS.

DAVID CLINTON, Banking Department, testified in support of the bill.

(see attached written testimony)

REP. KEISER asked about separation between board and and commissioners. It does not allow for someone to ignore the policy. The banking regulators meet regularly to deal with situations.

REP. STEFONOWICZ asked if federal mandates made a bill like this necessary.

CLINTON responded that yes, it did mandate the process.

REP. FROSETH asked what is the states position to take corrective action.

CLINTON responded that 606 08 42.

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House Industry, Business and Labor Committee

Bill/Resolution Number Hb 1099

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REP. KLEIN asked what it meant to be undercapitalized.

CLINTON respond that the bill provides for those. A ratio of less than 6 % and 4% of debt to assets would be undercapitalized.

GREG TSCHDER, ND credit Union League, testified in opposition to the bill.

(see attached written testimony)

REP. KLINE asked how failures were handled in past.

TSCHDER said yes, some failed in the past. One was in Linton.

KLINE asked how failure was handled.

TSCHDER responded that 6 06 08 provided for this.

REP GLASSHEIM asked if the bill gives any kind of latitude in deciding failure.

TSCHDER said that failures would be less than 6 % and federal legislation stipulates the requirements.

Chairman BERG closed the hearing on the bill.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1099 1-12-99

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-12-99

Tape Number	Side A	Side B	Meter #
2		x	201 - 568
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes: Chairman Berg opened the discussion of HB 1099.

Rep. Klein: I don't have a problem with the bill, but I do the amendment. The commissioner is the chairman of the board. Now he's also putting himself in for two votes. I don't see the need for the amendments.

Rep. Froseth made a motion for a Do Pass on the bill.

Rep. Ekstrom second the motion.

The roll call was 14 yea, 0 nay, 1 absent.

The motion carries.

Rep. Froseth will carry the bill.

Date: 1-12-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1099

House Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass

Motion Made By Froseth Seconded By Eckstrom

Representatives	Yes	No	Representatives	Yes	No
Chair - Berg	/		Rep. Thorpe		
Vice Chair - Kempenich	/				
Rep. Brekke	/				
Rep. Eckstrom	/				
Rep. Froseth	/				
Rep. Glassheim	/				
Rep. Johnson	/				
Rep. Keiser	/				
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux	/				
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz	/				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Froseth

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 12, 1999 5:18 p.m.

Module No: HR-06-0527
Carrier: Froseth
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1099: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1099 was placed on the Eleventh order on the calendar.

1999 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1099

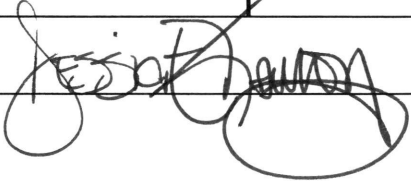
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1099

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date March 8, 1999

Tape Number	Side A	Side B	Meter #
1			0-600
Committee Clerk Signature 			

Minutes:

Senator Mutch opened the hearing on HB1099. All senators were present.

David Clinton, Assistant Commissioner for the Department of Banking and Financial

Institutions, testified introduced the HB1099 to the committee. His testimony is included.

Senator Mutch asked him how many of the credit unions are state-chartered. Mr. Clinton told him that 44 of the 68 credit unions in the state are state-chartered.

Galen Debey testified in support of HB1099. Senator Sand asked him if the directors can borrow up to 1% of the assets. Mr. Debey told him that they could borrow \$50, 000 or 1% of the assets, which ever of the two is less. Senator Mutch closed the hearing on HB1099.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number Hb1099

Hearing Date March 8, 1999

Committee Discussion took place on March 8, 1999.

Senator Klein motioned for a do pass committee recommendation on HB1099. Senator

Krebsbach seconded his motion. The motion carried with a 7-0-0 vote.

Senator Mathern will carry the bill.

Date: 3/8 SR414241
 Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
HOUSE BILL/RESOLUTION NO. 1099

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By KLEIN Seconded By KREBSBACH

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Krebsbach	X				
Senator Klein	X				
Senator Mathern	X				
Senator Heitkamp	X				
Senator Thompson	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment MATHERN

REPORT OF STANDING COMMITTEE (410)
March 8, 1999 1:43 p.m.

Module No: SR-41-4241
Carrier: D. Mathern
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1099: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1099 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

HB 1099

TESTIMONY FOR HOUSE BILL NO. 1099

House Industry, Business, and Labor Committee

Testimony of David E. Clinton, Assistant Commissioner, Department of Banking and Financial Institutions

House Bill No. 1099 authorizes the State Credit Union Board to take prompt corrective action when the Board determines that a state-chartered credit union is either under-capitalized, significantly under-capitalized, or critically under-capitalized. In so doing, the bill grants to the State Credit Union Board authority similar to the authority of the National Credit Union Administration (NCUA) with regard to federally-insured credit unions.

As part of the recent congressional enactment of House Bill No. 1151, NCUA has been authorized to take various supervisory actions based on the capital level of federally-insured credit unions in order to protect the deposit insurance funds. In the case of an insured credit union that is under-capitalized, the credit union must submit an acceptable net worth restoration plan to NCUA within an established timeframe. Additionally, an insured credit union that is under-capitalized may not generally permit its average total assets to increase and may not make any increase in the total amount of member business loans. Further, NCUA may require an under-capitalized credit union to annually set aside as net worth an amount equal to up to four-tenths percent of its total assets. NCUA must

for a significantly under-capitalized that has no reasonable prospect of becoming adequately capitalized or a critically under-capitalized credit union, take possession of the credit union, appoint a conservator or liquidating agent for the credit union, or take other appropriate action.

By granting similar authority to the State Credit Union Board, House Bill No. 1099 serves to preserve the role of the state as primary supervisor and to further the purposes of the dual banking system. By design, House Bill No. 1099 is structured akin to the State Credit Union Board's authority under North Dakota Century Code § 6-06-08.2 to take possession of failing institutions. A state-chartered credit union is afforded the same type of due process under House Bill No. 1099 as provided in Section 6-06-08.2. Although there are perhaps scenarios that would give rise to corrective action under either House Bill No. 1099 or Section 6-06-08.2, because of the need to harmonize state with federal law and for the need to provide greater flexibility to correct under-capitalized state-chartered credit unions, it seems prudent to have a specific state statute concerning prompt corrective action for under-capitalized credit unions.

Based on the above, the Department stands in support of House Bill No. 1099 and requests a favorable "Do-Pass" from the Committee.

6-06-08.1. Additional assessments of credit unions. Where the commissioner determines that more than one visit, inspection, or examination is necessary to promote the safety and soundness of a credit union during a twelve-month period, such credit union may be required to pay to the state treasurer one hundred dollars per day for the time used by the commissioner or other person designated by the commissioner in supervising, filing, and corresponding in connection with each additional visit, inspection, or examination and report of examination and for time used by each deputy examiner, or other person or persons in making and otherwise preparing and typing the reports of examination herein provided for. A credit union may be required to pay such assessment within ten days of receiving a billing from the commissioner. The state treasurer shall report such payments of fees to the state credit union board, and if any such credit union shall be delinquent more than twenty days in making such payment, the board may make an order suspending the functions of such delinquent credit union until payment of the amount due, plus a penalty of five dollars a day additional for the delay. The state credit union board may waive or postpone the collection of this special assessment if such assessment would place an undue burden on the credit union.

Source: S.L. 1983, ch. 110, § 5.

6-06-08.2. Failing institution — Emergency powers — Hearing — Order — Appeal. Whenever the state credit union board determines that a merger or acquisition of any of the credit unions under its supervision is necessary because the institution's equity is impaired, it is conducting its business in an unsafe, unsound, or unauthorized manner, or it is endangering the interests of shareholders, creditors or the public, whether or not the institution is insolvent, the state credit union board may, without a hearing, declare an emergency and declare that the institution is a failing institution. Upon such declaration the state credit union board may authorize the commissioner of banking and financial institutions to immediately take possession of the institution. The board is authorized to do all things necessary to continue service to the affected community including any merger or acquisition under this chapter or otherwise.

An institution which is the subject of such a board declaration may ask for a hearing before the state credit union board within five days after service of the state credit union board's declaration upon it. The application for a hearing must be granted and the hearing must be held not later than ten days after the application is filed. A complete record of the hearing must be established and maintained. On the basis of the hearing, the board shall enter a final order. The institution may appeal the order to the district court of the county in which the credit union is located within ten days after the order is served upon it. The appeal is governed by chapter 28-32 except that the board has ten days after service of the notice of appeal to

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1099

Page 1, line 6, after "board" insert "or commissioner"

Page 1, line 7, remove "state credit union" and after "board" insert "or commissioner"

Page 1, line 14, after "board" insert "or commissioner"

Page 1, line 16, after "the board" insert "or commissioner" and after "The board" insert "or commissioner"

Page 1, line 18 after "board" insert "or commissioner"

Page 1, line 19, remove "to the board"

Page 1, line 20, remove "by the board"

Page 1, line 22, after "board" insert "or commissioner"

Page 1, line 23, remove "the board determines"

Page 2, line 1, remove "board"

Page 2, line 2, remove "before the board" and remove "upon it of the board's declaration"

Page 2, line 5, after "board" insert "or commissioner"

Renumber accordingly

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Senate Industry, Business, and Labor Committee

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