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Lo Costa Richardson
Operator's Signature

10/16/03
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1413

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Galinda Rickford
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10/16/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1413

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 2/04/03

Tape Number	Side A	Side B	Meter #
I	x		0.0-54.3
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: **Chairman Keiser** opened the hearing on HB 1413.

Rep. Clark introduced the bill and presented amendments. This bill proposes to consolidate three departments into one unit, namely the insurance, securities and banking commissions which would become the Financial Services Commission. Combining these three boards would present a uniform perspective. The structure of the banking department is set up with the credit union and the banking boards, they are left intact to operate as they do now. The fundamental change is the appointment of the banking, and securities and insurance boards. This was traditionally done by the Governor but will forthwith be appointed by the Commissioner of Financial Services. The bulk of the other changes begin on page 58. All three divisions are to be separate but equal. We'll remove two commissioners and slide things over horizontally, the departments can analyze themselves internally so if there are savings to be achieved. Excess funds raised by the insurance department through licensing fees etc. are returned to the general fund. The Securities

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Yolanda Richardson
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10/16/03
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House Industry, Business and Labor Committee
Bill/Resolution Number HB 1413
Hearing Date 2/04/03

Department raises revenues too. As for banks, their excess funds are returned to the banks, no the general fund. Statutorily I didn't change they way those funds are handled.

Chairman Keiser: How about this skilled accountant referred to on page 58?

Rep. Clark: Legislative council suggested that.

Rep. Kasper: How much time did you spend interviewing existing department heads?

Rep. Clark: There's already crossover between these departments. sometimes there are problems relating to dual enforcement issues that would be alleviated if all three entities were under one roof. The consolidation could help regulate these concerns. The banking industry doesn't think there are savings to be achieved.

Rep. Ekstrom: Will all three divisions be in one location?

Rep. Clark: Co-location is not necessary, the Commissioner will be responsible for making all this work. There's a projected cost savings of \$250,000 per biennium, half returned to the banks, half to general fund.

As there was no one else present to testify in support of HB 1413, **Chairman Keiser** called for testimony in opposition to HB 1413.

Tim Karsky, representing the Department of Financial Institutions, testified in opposition to HB 1413. (See attached # 1)

John Skowronek, an attorney from Minot, testified in opposition to HB 1413. He stated that the lack of venture capital is a deterrent to economic development in ND. Intrastate private securities offerings don't have federal or state protection. At present, the three separate divisions assist in bolstering consumer confidence which regulates the products. What will happen to the rules and

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Jo Costa Richardson
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10/16/03
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House Industry, Business and Labor Committee
Bill/Resolution Number HB 1413
Hearing Date 2/04/03

regulations administered by the Securities Commission? He thinks that this proposed legislation is premature and not necessarily in the best interests for the public good.

Greg Tschider, representing the North Dakota Credit Union League, testified in opposition to HB 1413. (See attached # 2)

Jim Schlosser, representing the North Dakota Bankers Association, testified in opposition to HB 1413. (See attached # 3)

Donald Forsberg, Independent Community Banks of North Dakota, present oral testimony in opposition to HB 1413. He stated that no savings were determined in a study that was prepared back in 1999. This is "a major example of substance over form".

Michael Fix, Actuary for the ND Department of Insurance, came forward to clarify some aspects of the fiscal note. The department's stance is neutral in regard to whether this proposed bill becomes statute. Until a Finance Commissioner is in place to sort out what a new department would look like, there is no way to know what the cost savings may or may not be.

Rep. Kasper: Is there staff in the insurance department now who has banking and securities experience?

Fix: I don't think so.

As there was no one else present to testify in opposition to HB 1413, the hearing was closed.

Rep. Kasper moved a **Do Not Pass**.

Rep. Boe seconded the motion. Results of the roll call vote were unanimous: 14-0-0.

Rep. Kasper will carry this on the floor.

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10/16/03
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LR

FISCAL NOTE
Requested by Legislative Council
01/21/2003

Bill/Resolution No.: HB 1413

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

At the present time, the Insurance Department is unable to project in a meaningful manner the fiscal impact of HB 1413 upon the general fund. The proposed change could potentially result in some long-term administrative efficiencies and savings, especially by potentially eliminating duplicative functions and combining office space, to the extent combined offices could result in lower rent costs. At the outset, there would be transitional costs, particularly one-time expenditures to consolidate the three departments. Among these might include website and letterhead redesign, and the costs in integrating the accounting functions of the three Departments if such integration is feasible.

Whether or not any additional costs or savings would result would depend largely upon the decisions made by the Commissioner of Finance as to how best to integrate the three departments. These are impossible to predict today. Therefore this fiscal note does not project an impact on the general fund for the next biennium.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

N/A

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

N/A

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

N/A

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Richard Costa
Operator's Signature

10/16/03
Date

Name:	Douglas L. Holloway	Agency:	Insurance Department
Phone Number:	328-2440	Date Prepared:	02/03/2003

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Yolanda Richardson
Operator's Signature

10/16/03
Date

Date: 2/4/03
 Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1413

House Industry, Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Kasper Seconded By Boe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	/		Rep.Boe	/	
Rep. Severson, Vice-Chair	/		Rep. Ekstrom	/	
Rep. Dosch	/		Rep. Thorpe	/	
Rep. Froseth	/		Rep. Zaiser	/	
Rep. Johnson	/				
Rep. Kasper	/				
Rep. Klein	/				
Rep. Nottlestad	/				
Rep. Ruby	/				
Rep. Tleman	/				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Kasper

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

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Loiseta Rickford 10/16/03
 Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
February 5, 2003 11:18 a.m.

Module No: HR-22-1696
Carrier: Kasper
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1413: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends DO NOT PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1413 was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-22-1696

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Operator's Signature

La Costa Richardson

Date

10/16/03

LR

2003 TESTIMONY

HB 1413

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Yolanda Rickford 10/6/03
Operator's Signature Date

30141.0201
Title. 0300

Prepared by the Legislative Council staff for
Representative Clark
January 27, 2003

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1413

- Page 1, line 2, replace "26.1" with "54"
- Page 1, line 7, remove "6-02-05," and remove "6-01-13,"
- Page 1, line 8, remove "6-01-16,"
- Page 1, line 11, after the third comma insert "6-07-05,"
- Page 1, line 13, after the third comma insert "7-03-07," and after the fifth comma insert "7-05-04, 7-05-07,"
- Page 1, line 14, remove "and"
- Page 1, line 15, after the first comma insert "and 10-30.5-05,"
- Page 1, line 16, remove "26.1-01-02,"
- Page 1, line 18, remove the first "and" and after the second comma insert "and 54-12-08,"
- Page 1, line 20, after the second comma insert "6-01-13, 6-01-16, 26.1-01-02,"
- Page 1, line 21, replace "appointment of salary" with "offices"
- Page 1, line 22, remove "salary and official seal of the"
-
- Page 4, remove lines 15 and 16
- Page 4, line 17, replace "13." with "11."
- Page 4, line 18, replace "14." with "12."
- Page 4, line 20, replace "15." with "13."
- Page 4, line 23, replace "16." with "14."
- Page 4, line 26, replace "17." with "15."
- Page 4, line 28, replace "18." with "16."
-
- Page 9, line 26, remove lines 23 through 31
-
- Page 10, remove lines 1 through 3

Page No. 1

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Roberto Rickford
Operator's Signature

10/16/03
Date

Page 13, line 27, overstrike "Commissioner", remove "director, and chief deputy", overstrike "to keep records" and insert immediately thereafter "Records", and overstrike "make"

Page 13, line 28, overstrike the dash and remove "Reports"

Page 13, line 29, remove the overstrike over "~~commissioner~~", remove "chief deputy", overstrike "shall" and insert immediately thereafter "may designate an individual to"

Page 14, line 2, remove "director and"

Page 14, line 4, remove "and"

Page 14, line 5, remove "director"

Page 14, remove lines 23 through 31

Page 15, remove lines 1 and 2

Page 15, line 5, remove the overstrike over "~~commissioner~~" and remove "director"

Page 15, line 7, remove "through the director" and replace "director" with "commissioner"

Page 15, line 9, after the first "deputy" insert "examiner" and after the second "deputy" insert "examiner"

Page 15, line 10, remove the overstrike over "~~commissioner~~"

Page 15, line 11, remove "director"

Page 15, remove lines 21 through 29

Page 33, after line 5, insert:

"SECTION 38. AMENDMENT. Section 6-07-05 of the North Dakota Century Code is amended and reenacted as follows:

6-07-05. Examiner Deputy examiner may relinquish control of insolvent bank. ~~Whenever~~ If, after the examination mentioned in section 6-07-04 and before the appointment of a receiver, the deputy examiner finds that the bank is in such condition that all ~~the~~ the bank's creditors excluding ~~the~~ the bank's stockholders can be paid in full from ~~the~~ the bank's assets, ~~he~~ the deputy examiner may relinquish possession of ~~the~~ the bank's property to ~~the~~ the bank's proper officers, and such bank, with the consent of the deputy examiner, may resume business, or, after payment of ~~the~~ the bank's depositors, may liquidate upon such conditions as may be approved by ~~him~~ the deputy examiner. Such banks shall pay into the state treasury a fee of ten dollars per day and the hotel and traveling expenses of the ~~examiner or~~ deputy examiner who has been in charge of the bank."

Page 36, after line 28, insert:

Page No. 2

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10/16/63
Date

"SECTION 46. AMENDMENT. Section 7-03-07 of the North Dakota Century Code is amended and reenacted as follows:

7-03-07. Obtaining property by fraud, false bookkeeping and reports - Preventing inspection of books - Penalty. Any ~~It is a class C felony for any director, officer, agent, or employee of any building and loan association who to:~~

1. Willfully, with intent to defraud, ~~omit~~ omit to make, or cause or direct to be made, a full and true entry in its books and accounts of the receipt by the person of any of the property of such association;
2. ~~Consents~~ Concurs in omitting to make any material entry thereof;
3. Willfully ~~makes~~ make or ~~consents~~ concur in making or publishing any written report, exhibition, or statement of ~~its~~ the association's affairs or pecuniary condition, containing any material statement which is false; or
4. Having the custody or control of ~~its~~ the association's books, willfully ~~refuses~~ refuse or ~~fails~~ fail to make any proper entry in the books of such association as required by law, or to exhibit or allow the same to be inspected and extracts to be taken therefrom by the insurance commissioner of financial institutions, the commissioner's chief deputy, or any of the commissioner's deputy examiners, ~~is guilty of a class C felony.~~

Page 37, after line 30, insert:

"SECTION 49. AMENDMENT. Section 7-05-04 of the North Dakota Century Code is amended and reenacted as follows:

7-05-04. Reports confidential - Exceptions - Penalty. Information obtained in the course of an examination by the insurance commissioner of financial institutions is confidential information. However, ~~the above this confidentiality provision does not apply when if the insurance commissioner's public duty of such officer~~ requires the commissioner to report upon or take official action regarding the condition of an association that the commissioner has examined. This section ~~must does not be construed to prevent the said officer insurance commissioner from fully disclosing to any federal agency any information which such the commissioner may have in the commissioner's office pertaining to such associations. Nothing in this~~ This section prevents does not prohibit the proper exchange of information relating to building savings and loan associations and the business thereof of these associations with the representatives of building savings and loan departments of other states, but in no case may the private business or affairs of any individual association or company be disclosed. This section must does not be construed to prevent prohibit the said officer insurance commissioner from fully disclosing to the federal home loan bank board at Washington, D.C., or to the federal home loan bank of this district, or to any other federal agency, any information which such the commissioner may have in the commissioner's office pertaining to such associations. It is a class C felony for the insurance commissioner, the commissioner's deputy, or any of the commissioner's employees to willfully make a false report as to the condition of any association.

SECTION 50. AMENDMENT. Section 7-05-07 of the North Dakota Century Code is amended and reenacted as follows:

7-05-07. Communications from commissioner. Each official communication directed by the insurance commissioner of financial institutions or one of the commissioner's ~~examiners or deputies~~ employees to a building and loan association, or an officer ~~thereof~~ of such association, relating to an investigation or examination conducted by the commissioner or containing suggestions or recommendations as to

the conduct of the business of the association must be submitted by the officer receiving ~~the~~ the information to the board of directors at the next meeting of the board and noted in the minutes of the meeting of such board."

Page 38, remove line 7

Page 38, line 8, replace "4." with "3."

Page 38, line 21, remove "- Director - Deputy"

Page 39, line 12, remove "The director may appoint the deputy and in" and overstrike "the"

Page 39, line 13, overstrike "absence or disability of the", remove "director", and overstrike "the deputy shall administer the"

Page 39, line 14, overstrike "provisions of this chapter as acting", remove "director", and overstrike the period

Page 57, after line 15, insert:

"**SECTION 60. AMENDMENT.** Section 10-30.5-05 of the North Dakota Century Code is amended and reenacted as follows:

10-30.5-05. Management. The director of the finance office of the department of commerce division of economic development and finance must be the chief executive officer of the corporation. The board of directors shall determine minimum qualifications of all other staff positions.

All investments, contracts, partnerships, limited liability companies, and business transactions of the corporation are the responsibility of the ~~deputy director~~ insurance commissioner and the board of directors. The board may provide that normal operating costs anticipated in an approved budget may be incurred and paid without prior board approval."

Page 57, line 27, replace "26.1" with "54"

Page 57, line 29, replace "title" with "chapter"

Page 58, remove lines 2 and 3

Page 58, line 4, replace "4." with "3."

Page 58, line 17, remove "Each of the directors must be paid through funds appropriated to the commissioner"

Page 58, line 18, remove "by the legislative assembly."

Page 58, line 19, remove "directors and"

Page 58, line 20, after "to" insert "actual" and remove "and actually"

Page 58, line 22, remove "Appointment of directors -"

Page 58, line 23, remove ".1."

Page 58, line 24, replace "shall" with "may" and after "appoint" insert "directors as the commissioner determines appropriate, including"

Page 58, line 25, remove the third underscored comma

Page 58, line 26, remove "who shall discharge the duties assigned to the commissioner" and replace "Each" with "A"

Page 58, remove lines 28 through 31

Page 59, remove lines 1 through 9

Page 59, line 10, replace "4. The directors serve" with "A director serves"

Page 59, line 11, replace "any of the directors" with "a director" and replace "violate or fall" with "violates or falls"

Page 59, line 12, remove "or who becomes qualified under the provisions of this"

Page 59, line 13, remove "section"

Page 59, line 17, replace the first "director" with "division" and replace the second "director" with "division"

Page 59, line 18, replace "director" with "division"

Page 59, line 20, remove "and the duties of the directors"

Page 59, line 21, after "the" insert "department and the", remove "to corresponding directors" and remove "A duty"

Page 59, remove lines 22 through 24

Page 59, line 26, remove "The commissioner may adopt rules in accordance with any"

Page 59, remove line 27

Page 59, line 28, remove "directors is vested solely in the commissioner."

Page 60, line 17, remove line 3

Page 60, line 18, replace "4." with "3."

Page 60, remove lines 19 through 27

Page 67, after line 5, insert:

"SECTION 74. AMENDMENT. Section 54-12-08 of the North Dakota Century Code is amended and reenacted as follows:

54-12-08. Assistant and special assistant attorneys general - Appointment - Revocation - Compensation. After consultation with the head of the state

Page No. 5

30141.0201

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10/6/03
Date

department or institution or with the state board, commission, committee, or agency affected, the attorney general may appoint assistant or special assistant attorneys general to represent the state board, commission, committee, or agency. A state officer, head of any state department, whether elected or appointed, or state department, board, commission, committee, or agency may not employ legal counsel, and no person may act as legal counsel in any matter, action, or proceeding in which the state or any state department, board, commission, committee, or agency is interested or is a party, except upon written appointment by the attorney general. The workers compensation bureau, the department of transportation, the state tax commissioner, the public service commission, the insurance commissioner, and the board of higher education, ~~and the securities commissioner~~ may employ attorneys to represent them. These entities shall pay the salaries and expenses of the attorneys they employ within the limits of legislative appropriations. The attorneys ~~that~~ who represent these entities must be special assistant attorneys general appointed by the attorney general pursuant to this section. Absent good cause, the attorney general shall appoint as special assistant attorneys general licensed attorneys selected by these entities. The attorney general may revoke the appointment only for good cause or upon the request of the entity. Good cause means an inadequate level of experience, competence, or ethical standards. The powers conferred upon special assistant attorneys general are the same as are exercised by the regular assistant attorneys general, unless the powers are limited specifically by the terms of the appointment. Except as otherwise provided by this section, an appointment is revocable at the pleasure of the attorney general. The appointment may be made with or without compensation, and when compensation is allowed by the attorney general for services performed, the compensation must be paid out of the funds appropriated therefor. The attorney general may require payment for legal services rendered by any assistant or special assistant attorney general to any state official, board, department, agency, or commission and those entities shall make the required payment to the attorney general. Moneys received by the attorney general in payment for legal services rendered must be deposited into the attorney general's operating fund. General fund moneys may not be utilized for the payment of legal services provided by the attorneys employed by the attorney general, except for those payments required of the department of human services, state department of health, and the state hospital."

Page 67, line 6, after the second comma insert "6-01-13, 6-01-16, 26.1-01-02,"

Page 67, line 12, remove "director of financial institutions", "director of"

Page 67, line 13, remove "securities", and remove "director of insurance",

Renumber accordingly

2-4-03

TESTIMONY FOR HOUSE BILL NO. 1413

Testimony of Timothy J. Karsky, Commissioner, Department of Financial Institutions.

Chairman Keiser and members of the Industry, Business, and Labor Committee, my name is Timothy J. Karsky, Commissioner of the North Dakota Department of Financial Institutions, and I am here this morning to testify neutral on House Bill No. 1413 which would combine the Department of Financial Institutions along with the Securities Department into the Department of Insurance. Before I get into a breakdown of the individual aspects of the Bill, I would like to give you a brief history of what the Department of Financial Institutions does and how it is organized.

Currently the Commissioner of the Department of Financial Institutions is appointed by the Governor and confirmed by the Senate for a four-year term. I personally believe that the Senate confirmation process is one of the most valuable tools the Commissioner has to perform his duties. As indicated currently in North Dakota Century Code Section 6-01-08, the Commissioner must be appointed by the Governor and confirmed by the Senate and shall hold office for a term of four years and until a successor has been appointed, confirmed by the Senate, and has qualified, unless the Commissioner is removed sooner as herein provided. The

statute further states that the Governor may remove from office any Commissioner who violates or fails to discharge faithfully the duties of office or who becomes disqualified under the provisions of this Section. I believe this process enables the Commissioner to perform his duties as a regulator without fearing the loss of his job because of decisions that a regulator must make on a day-to-day basis. I will discuss these facts with you in more detail later.

The Department is also governed by a State Banking Board and State Credit Union Board, of which the Commissioner serves as Chairman for both. The State Banking Board consists of six additional members and the State Credit Union Board consists of four additional members, all of whom are appointed by the Governor and serve a term of five years. North Dakota Century Code Section 6-01-04 authorizes both Boards the authority to adopt rules for the government of financial corporations to the extent that the rules do not conflict with any law of this state or of the United States and the Boards shall make and enforce such orders as are necessary or proper to protect the public and the depositors or creditors of those financial corporations and institutions.

Currently there are 104 total banks in the State of North Dakota, not including the Bank of North Dakota, of which 89 are state-chartered banks and under the direct responsibility and regulatory oversight of the Department of Financial Institutions. The 89 state-chartered banks' total assets are approximately

\$6.5 billion, with total loans of approximately \$4.5 billion. The total deposits of state supervised banks are approximately \$5.5 billion. On the credit union side, there are 39 state-chartered credit unions with total assets totaling \$1.2 billion. The Department of Financial Institutions' Mission Statement states it is "To maintain public confidence in North Dakota financial institutions by ensuring the financial industry operates in a safe and sound manner while complying with applicable rules and laws".

The maintenance of a strong and healthy banking environment ensures that economic development will prosper not only in North Dakota, but throughout the United States. It is no secret that the financial industry is one of the highly most regulated industries of any in this country and in the State of North Dakota. Because financial institutions play a key role in the transferring of payments and deposit taking, it is necessary to maintain a healthy system. Again, without this, economic development would not prosper in this State.

In looking at the proposed legislation in House Bill No. 1413, any reference made to the banking commissioner or the commissioner for the Department of Financial Institutions is now replaced by the Insurance Commissioner, who is an elected official in the State of North Dakota. I would like to bring to your attention that currently among all 50 states there is only one elected banking regulator, which is in the State of Florida. I do not believe having an elected official

supervising and regulating the banking industry is good public policy. Furthermore, House Bill No. 1413 takes away certain powers of the State Banking Board and State Credit Union Board. The Bill indicates that all rulemaking authority will be taken away from the State Banking Board and State Credit Union Board and will be transferred to the Insurance Commissioner. Again, I do not believe this is good public policy and that the Boards provide a check and balance system.

Section 2 of House Bill No. 1413 also states that the commissioner will now become responsible for the proper expenditures of those monies as provided by law. As you are aware, the Department of Financial Institutions is a self-funded agency and is 100% funded by banks, credit unions, and consumer entities that the Department regulates. The Department receives no general fund money for its operation. I am concerned once the Insurance Commissioner would have control of these funds the financial institutions division may start supporting other entities in the Insurance Commissioner's office. Although Representative Clark has indicated that these funds will stay intact, this will be strictly up to the Insurance Commissioner and there are no guarantees in how the Insurance Commissioner would utilize these funds.

I would also like to bring to your attention Section 5 of the Bill, line 23, where it indicates the director shall serve as the board secretary for the State Credit

Union Board and State Banking Board. This appears to conflict with Section 13 of the Bill, line 29, whereby the chief deputy shall act as secretary and keep all records and files pertaining to the duties and work of the commissioner and the proceedings of the board and division.

Mr. Chairman and members of the Committee, in reviewing House Bill No. 1413 I see there will be no benefit to the citizens or taxpayers of North Dakota. It appears that by combining these three agencies we create another higher bureaucracy of management that will create inefficiencies in managing the three divisions.

Finally, although we are all familiar with the Gramm-Leach-Bliley Act (GLB) mainly through the privacy provisions which this Legislative body debated in the last session, I do not believe it was the intent of Congress to create one regulator for these entities. In fact, both the House and Senate generally adhere to the principal of functional regulation which holds that similar activity should be regulated by the same regulator. Different regulators have expertise at supervising different activities. It is inefficient and impractical to expect a regulator to have and develop expertise in regulating all aspects of financial services. Accordingly, GLB intends to ensure the banking activities are regulated by bank regulators, securities are regulated by security regulators, and insurance activities are regulated by insurance regulators. It does not appear that these agencies are being

combined at the federal level, and I do not feel they should be combined at the state level.

However, I am not opposed to this Legislative Assembly studying the feasibility of combining these agencies. If there is actual savings and benefits to the citizens of North Dakota and you can ensure the regulatory process will not be compromised, it may be appropriate. I do not believe House Bill No. 1413 currently addresses the concerns I have stressed above.

Thank you.

TESTIMONY IN OPPOSITION TO HOUSE BILL NO. 1413

GREG TSCHIDER, ND CREDIT UNION LEAGUE

Mr. Chairman and Members of the House Industry, Business, and Labor Committee, I am Greg Tschider and I represent the North Dakota Credit Union League.

House Bill 1413 is a department merger bill. "Merger" sometimes carries a connotation that life will be better after the merger. In evaluating this bill, the North Dakota Credit Union League requests that the Committee evaluate the alleged benefits of this bill. Will the consumer, the affected industries, or the taxpayer benefit from the changes?

CONSUMER. Will the consumer receive more or better protection? This is not a consumer protection bill. There are no specific protections contained in this bill. The fact of the matter is that the departments of insurance, securities, and financial institutions are performing an excellent job in supervising their respective industries and protecting the consumers. The system is working well.

INDUSTRIES. Is there a benefit in this bill for the affected industries? No. The only purpose of this bill is to change the organization chart and give complete control to the Insurance Commissioner. At the present time, the Commissioner of Financial Institutions is the chairperson of the North Dakota State Credit Union Board and the North Dakota State Banking Board. Those boards have the responsibility and authority to regulate credit unions and banks. Members of the

Board are appointed by the Governor and serve for five year terms. House Bill 1413 grants the appointment authority to the Insurance Commissioner and the members of the Boards serve at the pleasure of the Insurance Commissioner. Thus, if a Board member is not a "yes" person, the Commissioner can simply remove that person from the Board.

Also, the Boards presently have rule making authority. House Bill 1413 gives the rule making authority to the Commissioner.

House Bill 1413 basically emasculates both Boards. Under House Bill 1413, the Boards have no purpose. The Boards are necessary because they provide input from various resources and prevent potential abuse which could result when one person has complete control.

TAXPAYER. There is no positive or negative fiscal vote to this bill in regards to financial institutions since the costs of supervision of financial institutions are charged to the financial institution.

POLITICS. No state in the nation has an elected state regulator of financial institutions and politics should not be involved in the supervision of financial institutions. It is also important to note that on the federal level, regulation of financial institutions is separate and distinct from other industries.

It does not serve the consumer or the State of North Dakota well to have the individual industries attempting to get "their candidate" elected to the commissioner's position.

This legislation has been considered by the Legislature before and defeated because there are no savings or efficiencies. The system is working fine. There is enormous competition between financial institutions, securities companies, and insurance companies and financial institutions should not be supervised by a regulator of a competing industry.

Therefore, North Dakota Credit Union League respectfully requests that this Committee send this bill to the House floor with a "Do Not Pass" recommendation.

LR

HB 1413
Testimony of Jim Schlosser
North Dakota Bankers Association

The North Dakota Bankers Association (NDBA) represents nearly 100 financial institutions in the state including the largest and smallest bank and all of the savings institutions in North Dakota. At the present time, there are 89 state banks in North Dakota regulated by the Department of Financial Institutions. The NDBA Board of Directors and Legislative Committee representing nearly 40 institutions throughout the state unanimously voted last week to oppose HB 1413.

Banks and bankers throughout the state oppose HB 1413 for the following reasons:

- Legislation merging the Department of Financial Institutions and Insurance and Securities Departments has been introduced in past sessions and soundly defeated. In 1999 when a bill was introduced to establish a Commerce Department, it was reported at the hearing by the Banking Commissioner that a study conducted by the Governor's office in 1998 revealed there would be no efficiencies or savings by combining the three departments. We believe the same is true today.
- **There is no elected state financial institution regulator in the country.** It is important that a regulator of banks and credit unions remain independent and not influenced by political considerations.

■ At the present time, the State Banking Board and commissioner of Financial Institutions oversees examiners and administers and executes all laws relating to the state financial institutions. HB 1413 provides that the Insurance Commissioner now will adopt rules for the governing of financial institutions and that the Banking Board will only make and enforce orders necessary to protect the public and depositors or creditors of financial institutions. **Bankers in the state believe that adopting rules and overseeing the administration of state financial institutions belongs with the Commissioner of Financial Institutions, not an elected official who also regulates a competing industry.**

■ The bill provides that the Governor will no longer appoint individuals to the banking and credit union boards and the Insurance Commissioner will now appoint those members, and they will serve with no terms. Currently, they have five-year terms.

Similar proposals have been rejected in the past and we have no study or findings that the legislation will result in any efficiencies or savings (conclusion of Governor's study of 1998), and there is no evidence that the current system we have with individual regulators for financial institutions, insurance and securities is not satisfactory and working well for consumers and firms and corporations regulated by each department.

(Legis\HB1413 Testimony)

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10/6/03
Date