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Deanna D. [Signature]
Operator's Signature

10/21/03
Date

2003 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2267

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Deanna Walcott
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10/21/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2267

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 01-27-03

Tape Number	Side A	Side B	Meter #
1	xxxx		0-2300
Committee Clerk Signature <i>Lisa VanBeekom</i>			

Minutes: Chairman Mutch called the committee to order. All Senators present.

SB 2267 relates to approval by federal regulatory authorities, authority of a bank to branch interstate, notice and filing requirements, and powers of banks operating through interstate branches.

Testimony in support of SB 2267

Senator Tom Trenbeath introduced the bill. He states that local banks follow the "snow birds" and there are restrictions. This bill is designed to ensure the existence of local banks in our small communities. He then refers testimony to Marilyn Foss, general counsel for the North Dakota Bankers Association (NDBA). She states that SB 2267 expands the methods by which North Dakota banks may establish branch offices in other states and by which non North Dakota banks may establish branch offices in North Dakota. This is a way for NDBA to expand branching powers. See written testimony. (meter no. 809, tape 1, side A)

Senator Mutch: When you refer to community banks, are those state chartered?

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Date

Page 2
Senate Industry, Business and Labor Committee
Bill/Resolution Number 2267
Hearing Date 1-27-03

Marilyn Foss: Community banks can be state chartered, but they also have national banks that are community banks.

Senator Espgaard: What a difference a few years makes. I have no opposition to this.

Senator Mutch: A national bank that is branched into North Dakota, do they have this law?

Marilyn Foss: Actually national banks that come into North Dakota, do have to abide by branching laws.

No further questions from the committee.

Neil Fedje, President of Citizens State Bank-Midwest, Cavalier, North Dakota, spoke in support of SB 2267. See attached testimony. (meter no. 1022, tape 1, side A)

Senator Espgaard: This wouldn't preclude your commitment to agriculture in your area, would it?

Neil Fedje: No, this would diversify and make us a stronger bank, thus being able to serve our customers better.

Senator Heitkamp: Is there a fear that ND will get a big migration of out of state banks, making so you are competing with a new bank every day?

Neil Fedje: I don't believe so. With the rural economy the way it is, I don't see that happening.

Senator Espgaard: Mr. Chairman, this bill would allow them to just come into ND and set up a branch, they don't have to charter anymore.

Senator Nething: Would they have to prove a need for a new bank?

Neil Fedje: They would have to be approved by the FDIC. There is a formal process.

Senator Espgaard: If there is a need, they can do it.

Senator Mutch: How many banks are there in Cavalier?

Neil Fedje: There are two banks, one branch, a credit union, and Farm Credit. There is a lot of competition.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number 2267

Hearing Date 1-27-03

Senator Espgaard: Would this allow you to combine your organization together and form one?

Neil Fedje: We do now. When we purchased a bank in Minnesota, we merged it.

No further questions from the committee.

Don Foresberg, Executive Vice President of the Independent Community Banks of North Dakota. He states for the record that they are in support of SB 2267. This bill would make it easier for institutions to set up interstate banks.

No questions from the committee.

Tim Karsky, Commissioner for the Department of Financial Institutions, said they are neutral on SB 2267. He said out of state competition is welcomed.

Senator Heltkamp: Can a small bank just hang up a shingle in a small community?

Tim Karsky: They would have to go through our office first and gain approval.

No further questions from the committee.

Senator Krebsbach: So you were allowed to do this in Minnesota?

Neil Fedje: We bought the bank then merged it.

No opposing testimony.

Senator Espgaard moved a DO PASS. Senator Krebsbach seconded.

Roll Call Vote: 7 Yes. 0 No. 0 Absent.

Carrier: Senator Espgaard

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Deanna D. Smith
Operator's Signature

10/21/03
Date

Date: 1-27-03
 Roll Call Vote #:

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO.

Senate IBL Committee

Check here for Conference Committee

Legislative Council Amendment Number 2267

Action Taken DO PASS

Motion Made By Espgaard Seconded By Krebsbach

Senators	Yes	No	Senators	Yes	No
7- Sen. Duane Mutch, Chairman	✓		Sen. Michael Every <u>5</u>	✓	
7- Sen. Jerry Klein, Vice Chairman	✓		Sen. Joel Heitkamp <u>4</u>	✓	
6- Sen. Duaine Espgaard	✓				
2- Sen. Karen Krebsbach	✓				
3- Sen. Dave Nething	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Espgaard

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

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Deanna Waller
 Operator's Signature Date 10/21/03

REPORT OF STANDING COMMITTEE (410)
January 27, 2003 3:30 p.m.

Module No: SR-15-1149
Carrier: Espegard
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2267: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends
DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2267 was placed
on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-15-1149

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Deanna Mutch
Operator's Signature

10/21/03
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2267

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Deanna O'Neil
Operator's Signature

10/21/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2267

House Industry, Business and Labor Committee

Conference Committee

Hearing Date March 11, 2003

Tape Number	Side A	Side B	Meter #
2	X		0-1610

Committee Clerk Signature *Elizabeth R. J. J.*

Minutes: **Chair Keiser:** Opened hearing on SB 2267

Marilyn Foss (ND Bankers Assoc): Supports with written testimony. Need because ND banks can only branch into other states depending on our laws.

Rep. Kasper: If they want to come to ND, is their authority by the commissioner? Or can they just set up a bank wherever they want to? Foss said that this does not change the standards of supervisory agents. If a bank applies and there is no market, the application can be denied. You do not have to prove absolute financial success.

Rep. Ekstrom: Do we lose competition of other banks if, for example, Wells Fargo bought out other banks? Foss said federal agencies measure competition and mergers can be denied on antitrust laws.

Rep. Keiser: Do we have a list of other states with similar laws? Foss said she can get one.

Nell Fedjle (Banker from Cavalier): Supports with written testimony.

Don Forsberg (Independent Community Banks of ND): Also supports

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Deanna D. Smith
Operator's Signature

10/21/03
Date

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number 2267

Hearing Date March 11, 2003

Rep. Kasper moved DP. Second by Rep. Klein

Rep. Keiser: This is a real opportunity for our banks to branch out.

Vote: 12 Yes 0 No 2 Absent and not voting

Carrier: Dosch

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Deanna Waller
Operator's Signature

10/21/03
Date

Date: 3/11 /03
Roll Call Vote #: |

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2267

House INDUSTRY BUSINESS & LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP

Motion Made By Kasper Seconded By Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Boe	Absent	
Vice-Chair Severson	✓		Ekstrom	✓	
Dosch	✓		Thorpe	✓	
Froseth	✓		Zaiser	Absent	
Johnson	✓				
Kasper	✓				
Klein	✓				
Nottestad	✓				
Ruby	✓				
Tieman	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Dosch

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

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Deanna Waller Operator's Signature 10/21/03 Date

REPORT OF STANDING COMMITTEE (410)
March 12, 2003 8:39 a.m.

Module No: HR-44-4530
Carrier: Dosch
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2267: Industry, Business and Labor Committee (Rep. Kelsor, Chairman) recommends DO PASS (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2267 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-44-4530

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2003 TESTIMONY

SB 2267

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Deanna O'Neil

10/21/03

Date

POST- RIEGLE-NEAL INTERSTATE ENACTMENTS

FSS

STATE	Statute	Effective Date	Age Requirement	Deposit Cap	De Novo	Affiliates as Agents	Buy Branches Separately
Alabama	§ 5-13B-20	5/31/97	No	30%	No	Yes	No
Alaska	§§ 06.05. 550 -570	9/12/96	None	50%	No	-	-
Arizona	1996 Chapter 81	8/31/96	5-years	30%	No	Yes	No
Arkansas	1995 Act 467 1995 Act 606 1995 Act 610 1997 Act 408	- - - 5/31/97	- 5-years	- - - -	- - - No	- - Yes -	- - - No
California	1995 Ch. 480 1995 Ch. 479 1995 Ch. 754	10/2/95 - -	5-years - -	- - -	No - -	Yes - -	No - -
Colorado	Act 11-2-103 (1995)	6/1/97	5-years	25%	No	Yes	No
Connecticut	1995 Act 155	6/27/95	5-years	30%	Yes (Reciprocal)	Yes	Yes
Delaware	1995 Ch. 112	9/29/95	5-years	30%	No	Yes	No
District of Columbia	1996 DC Law 11-142	4/16/96	2-years	-	Yes (Reciprocal)	Yes	Yes (Reciprocal)
Florida	§§ 658.295- 658.2953	6/1/97	3-years	30%	No	Yes	No
Georgia	1995 Act 343 1996 Act 624	- 6/1/97	- 5-years	- 30%	- No	Yes -	- No
Hawaii	1995 Act 33	-	5-years	None	Yes	-	No
Idaho	1995 Ch. 99	7/1/95	5-years	None	No	Yes	No
Illinois	1995 Act 89-208	6/1/97	5-years	-	-	Yes	No
Indiana	1996 P.L. 171	3/15/96	None	-	Yes (Reciprocal)	Yes	Yes
Iowa	1995 Ch. 148	6/1/97	5-years	15%	No	Yes	No
Kansas	§ 9-532, -541	1/1/96	5-years	-	No	-	-
Kentucky	1996 Ch. 338	6/29/95	5-years	15%	-	Yes	No
Louisiana	1995 Act 1249	6/1/97	5-years	-	No	Yes	No
Maine	1996 Ch. 628	1/1/97	-	30%	Yes (Reciprocal)	Yes	Yes
Maryland	1995 Ch. 213	9/29/95	None	30%	Yes (Reciprocal)	Yes	Yes
Mass.	1996 Ch. 238	8/2/96	3-years	30%	Yes (Reciprocal)	-	es

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Date

STATE	Statute	Effective Date	Age Requirement	Deposit Cap	De Novo	Affiliates as Agents	Buy Branches Separately
Michigan	1995 P.A. 202	11/29/95	None	None	Yes (Reciprocal)	Yes	Yes
Minnesota	1995 Ch. 202 1996 Ch. 414	9/29/95 6/1/97	5-years -	30% -	- -	Yes -	- No
Mississippi	1996 Ch. 441	5/1/97	5-years	25%	No	-	-
Missouri	1995 H.B. 63 1995 S.B. 215	8/28/95 -	5-years -	- -	No -	- Yes	- -
Montana	1997 H.B. 262	-	-	-	-	-	-
Nebraska	2002 LB 1089	4/18/02	5-years	22%	No	-	No
Nevada	1995 Ch. 482	9/28/95	5-years	-	Yes (For Counties greater than 100,000)	Yes	Yes (For Counties greater than 100,000)
New Hampshire	1995 Ch. 304	6/1/97	None	30%	No	-	No
New Jersey	1996 Chapter 17	4/17/96	None ¹	30%	No	Yes	Yes (Reciprocal)
New Mexico	1996 Ch. 2	6/1/96	5-years	40%	No	Yes	No
New York	1996 Ch. 9	2/6/96	5-years	-	No	Yes	Yes
North Carolina	1995 Ch. 322	6/22/95	-	-	Yes	-	Yes
North Dakota	1995 Ch. 79	5/31/97	None	25%	No	Yes	No
Ohio	1997 S.B. 40	5/21/97	5-years	-	Yes	-	Yes
Oklahoma	1996 Ch. 92	5/31/97	5-years	12.5%	No	-	No
Oregon	1995 Ch. 6	2/17/95	3-years	-	-	-	Yes
Penn.	1995 Act 39	7/6/95	-	-	Yes (Reciprocal)	-	Yes
Rhode Island	1995 Ch. 4	6/20/95	None	-	Yes (Same terms)	Yes	Yes
South Carolina	1996 Act 310	7/1/96	5-years	30%	No	Yes	No
South Dakota	1995 Ch. 267	7/1/96	5-years	-	No	Yes	No
Tennessee	1995 Act 165	6/1/97	5-years	30%	Yes (Reciprocal)	Yes	Yes
Texas	1995 Ch. 58 1999 Ch. 344	5/9/95 9/1/99	- 5-years	- 20%	- Yes (Reciprocal)	- -	- Yes

Dept. of Banking reg N.J.A.C. 3:1-2.20(a)2 requires 5 years.

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12/21/03
DATE

STATE	Statute	Effective Date	Age Requirement	Deposit Cap	De Novo	Affiliates as Agents	Buy Branches Separately
Utah	1995 Ch. 49 2001 HB 263	6/1/95 -	5-years -	None -	Yes (With 14 other States)	Yes -	Yes -
Vermont	1995 Act 514 (Conformance) 1996 Act 142	9/29/95 5/30/96	- 5-years	30% 30%	- No	Yes Yes	- -
Virginia	1995 Ch. 301	7/1/95	-	-	Yes (Reciprocal)	Yes	Yes
Washington	1996 Ch. 2	6/8/96	5-years	30%	No	Yes	No
West Virginia	1995 Ch. 49 1996 Ch. 72	- 5/31/97	- -	- 25%	- Yes (Reciprocal)	Yes Yes	- Yes (Reciprocal)
Wisconsin	1995 Act 55	9/29/95	5-years	-	No	Yes	-
Wyoming	1997 Ch. 75 1999 Ch. 41	5/31/97 7/1/99	3-years -	30% -	No -	- -	No Intrastate Branching Permitted

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Operator's Signature Robert S. [Signature] Date 12/21/03

January 27, 2003

Industry, Business and Labor Committee
North Dakota Senate

Dear Mr. Chairman and Committee Members:

My name is Neil Fedje, President of Citizens State Bank- Midwest, Cavalier, North Dakota. Our bank is a Community Bank in rural North Dakota and serves the greater portion of Pembina County. Our loan portfolio includes farm operating loans and equipment loans, farm real estate loans, farm equipment leases, main street business and real estate loans, residential real estate loans, and personal loans. Nearly all of these borrowers are directly or indirectly dependent on agriculture in our immediate area. On October 1, 1999, we purchased the Farmers State Bank, Stephen, Minnesota in order to expand our customer base and diversify our risk over a greater area. However, nearly all these customers are also dependent on agriculture. In April, 2002, we opened a branch office in Bemidji, Minnesota, to further diversify our customer base and loan risk in both a different geographic area and a different economic situation.

In the previous several years, both loan demand and deposit growth had slowed, so in May, 2001, we applied for and received permission to open a Loan Production Office (LPO) in Scottsdale, Arizona, with the intention of eventually opening a full service branch office in the area. This was an attempt to diversify our loan portfolio by both location and type of loan. By mid-summer our loan officer had located a small branch that was for sale. We then received verbal assurances from both the North Dakota Commissioner of Banking and the Arizona Superintendent of Banking that they did not have any objections to our purchase of this branch. Before we submitted the formal application, we discovered one sentence in the Arizona law that required that "the home state of the out-of-state financial institution permit reciprocal acquisitions for the same purpose." After further discussion with the North Dakota Banking Commissioner, it was submitted to the North Dakota Attorney General for review. His interpretation of the banking statutes was that North Dakota law did not provide for reciprocity. Thus, we were unable to complete the purchase of the branch office at that time.

In view of the uncertainty in the agricultural economy and the problems many main street businesses are having in our small rural towns, we feel it is only prudent to diversify our customer base and risk to other areas when possible. This will help maintain the profitability and strength of the local community bank, which will allow us to be of more help to our local farm and main street customers in difficult times as well as the good times. To accomplish this, the North Dakota banking statutes will need to be amended to allow reciprocity with other states where this is required. We appreciate your consideration of this matter.

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Dean D. Hall
Operator's Signature

10/21/03
Date

TESTIMONY OF NDBA (MARILYN FOSS) IN SUPPORT OF SB 2267

Mr. Chairman, members of the committee, my name is Marilyn Foss. I am general counsel for the North Dakota Bankers Association (NDBA). SB 2267 expands the methods by which North Dakota banks may establish branch offices in other states and by which non North Dakota banks may establish branch offices in North Dakota. The subject of expanded interstate bank branching laws was brought before the NDBA legislative committee by NDBA community bank members because they see opportunity in expanded branching powers.

North Dakota's existing interstate banking and branching laws date from 1995 when the legislature adopted interstate banking and interstate bank branching laws to implement the federal Riegle-Neal Act. That federal law required state legislative bodies to adopt state laws so that, at a minimum, bank holding companies could acquire banks in states outside their "home" states and so that all banks could branch interstate, at least through the mechanism of a merger with an out of state bank. North Dakota implemented the interstate banking requirement by enacting NDCC Chapter 6-08.3, Reciprocal Interstate Banking, and NDCC Chapter 6-08.4, Interstate Branching. SB 2267 relates only to interstate branching. Accordingly, its changes are all to Chapter 6-08.4.

The approach North Dakota took to interstate banking and branching in 1995 was conservative; essentially we did the minimum we under federal law. We limited interstate banking to acquisition of an existing bank could by an out of state holding company and required that bank to be five years of age. And, we permitted interstate branching only in

connection with a merger of two or more separate banks. While there has been some tinkering with the interstate banking laws since 1995, the main substantive limitations remain. What have changed are the circumstances. In 2003 all North Dakota banks are available for acquisition because all are more than five years old. And, now, our community banks see interstate branching as an opportunity, rather than a threat, and, they find their opportunities for growth and diversification to be impeded by the existing law. To use the interstate banking law to expand across state lines, a North Dakota holding company must either buy or form a bank in another state. To use the interstate branching law to expand across state lines a North Dakota bank must find an out of state bank and either acquire that bank or be acquired by that bank and lose its separate existence in a merger transaction.

SB 2267 would permit North Dakota banks to establish branches in other states *de novo* (i.e., from scratch), by acquiring an existing branch of another financial institution, as well as through a merger transaction. Before this authority can be exercised, the laws of the state other than North Dakota will also have to permit the transaction to occur. The bill will also allow banks from other states to open branches in North Dakota on the same, expanded basis. However, there is a reciprocity requirement in the bill because not all other states permit interstate branching *de novo* and through acquisition of an existing branch. With the reciprocity provision, an out of state bank may branch into North Dakota only in the same manner in which a North Dakota bank could branch into the home state of the out of state bank.

SB 2267 retains the protections of the current law in terms of regulation and supervision of interstate bank branches. State and federal regulatory approval is required for the branch transaction as appropriate. The activities of the banks through their branches are essentially governed by the law of the state where the branch is located if that law is more restrictive than the law of the chartering state. And, the North Dakota state banking board retains supervisory and examination authority over the bank and bank branch. (The state department of financial institutions has cooperative agreements in place to facilitate examinations of interstate branches of North Dakota and out of state banks, wherever located.)

Those of you who have served in the legislature over a number of sessions may remember the controversies over past efforts to change our bank branching laws. So far as I can tell today (and I have asked) this bill is not controversial within the banking industry.

I want to share one final piece of information. Interstate banking laws can be complicated. For that reason I reviewed the necessary changes and the original bill draft with the state department of financial institutions. I understand that the department has no position in support or opposition to the bill. However the department and its counsel have reviewed the substantive changes and have advised me that they agree the bill does what we want it to do: permit interstate branching by North Dakota into other states and by out of state banks into North Dakota either by the creation of a new facility from scratch, through the acquisition of an existing branch from another financial institution, or through a merger transaction, subject only to reciprocity requirements.

Deanna Waller
Operator's signature

10/21/03
Date

With that I'd be happy to answer questions from the committee. And, then I'd like to let you hear testimony from a Cavalier banker whose bank's plans for expansion were scuttled by the current law.

4

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Operator's Signature

12/2/03
Date

Citizens



STATE BANK - MIDWEST
P.O. BOX 30
CAVALIER, NORTH DAKOTA 58220
PHONE 701-265-8484

March 11, 2003

Industry, Business and Labor Committee
North Dakota House of Representatives

Dear Mr. Chairman and Committee Members:

My name is Neil Fedje, President of Citizens State Bank- Midwest, Cavalier, North Dakota. Our bank is a Community Bank in rural North Dakota and serves the greater portion of Pembina County. Our loan portfolio includes farm operating loans and equipment loans, farm real estate loans, farm equipment leases, main street business and real estate loans, residential real estate loans, and personal loans. Nearly all of these borrowers are directly or indirectly dependent on agriculture in our immediate area. On October 1, 1999, we purchased the Farmers State Bank, Stephen, Minnesota, and converted it to a branch office in order to expand our customer base and diversify our risk over a greater area. However, nearly all these customers are also dependent on agriculture. In April, 2002, we opened a branch office in Bemidji, Minnesota, to further diversify our customer base and loan risk in both a different geographic area and a different economic situation.

In the previous several years, both loan demand and deposit growth had slowed, so in May, 2001, we applied for and received permission to open a Loan Production Office (LPO) in Scottsdale, Arizona, with the intention of eventually opening a full service branch office in the area. This was an attempt to diversify our loan portfolio by both location and type of loan. By mid-summer our loan officer had located a small branch that was for sale. We then received verbal assurances from both the North Dakota Commissioner of Banking and the Arizona Superintendent of Banking that they did not have any objections to our purchase of this branch. Before we submitted the formal application, we discovered one sentence in the Arizona law that required that "the home state of the out-of-state financial institution permit reciprocal acquisitions for the same purpose." After further discussion with the North Dakota Banking Commissioner, it was submitted to the North Dakota Attorney General for review. His interpretation of the banking statutes was that North Dakota law did not provide for reciprocity. Thus, we were unable to complete the purchase of the branch office at that time.

In view of the uncertainty in the agricultural economy and the problems many main street businesses are having in our small rural towns, we feel it is only prudent to diversify our customer base and risk to other areas when possible. This will help maintain the profitability and strength of the local community bank, which will allow us to be of more help to our local farm and main street customers in difficult times as well as the good times. To accomplish this, the North Dakota banking statutes will need to be amended to allow reciprocity with other states where this is required. We appreciate your consideration of this matter.

OFFICES AT:

P.O. BOX 30, NECHE, ND 58265 PH. 701-886-7521	P.O. BOX 1250, BEMIDJI, MN 56601 PH. 218-444-3486
P.O. BOX 389, PEMBINA, ND 58271 PH. 701-825-6289	P.O. BOX 130, KENNEDY, MN 56733 PH. 218-674-4179
P.O. BOX 98, WALHALLA, ND 58282 PH. 701-549-3130	P.O. BOX 450, STEPHEN, MN 56757 PH. 218-478-3319
CITIZENS LOAN COMPANY (LPO) 14201 N. HAYDEN ROAD SUITE A1, SCOTTSDALE, AZ 85260 PH. 480-368-0521	

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Deanna Waller
Operator's signature

10/21/03
Date

TESTIMONY OF NDBA (MARILYN FOSS) IN SUPPORT OF SB 2267

Mr. Chairman, members of the committee, my name is Marilyn Foss. I am here for the North Dakota Bankers Association (NDBA). SB 2267 expands the methods by which North Dakota banks may establish branch offices in other states and by which banks from states other than North Dakota may establish branch offices in North Dakota. The subject of expanded interstate bank branching laws was brought before the NDBA legislative committee by NDBA community bank members because they see opportunity in expanded branching powers.

North Dakota's existing interstate banking and branching laws date from 1995 when the legislature adopted interstate banking and interstate bank branching laws to implement the federal Riegle-Neal Act. That federal law required state legislative bodies to adopt state laws so that, at a minimum, bank holding companies could acquire banks in states outside their "home" states and so that all banks could branch interstate, at least through the mechanism of a merger with an out of state bank. North Dakota implemented the interstate banking requirement by enacting NDCC Chapter 6-08.3, Reciprocal Interstate Banking, and NDCC Chapter 6-08.4, Interstate Branching. SB 2267 relates only to interstate branching. Accordingly, its changes are all to Chapter 6-08.4.

The approach North Dakota took to interstate banking and branching in 1995 was conservative; essentially we did the minimum allowable under federal law. We limited interstate banking to acquisition of an existing bank by an out of state holding company and required that bank to be at least five years of age. Our law also permitted interstate branching only in connection with a merger of two or more separate banks. While there

has been some tinkering with the interstate banking laws since 1995, the main substantive limitations remain. What have changed are the circumstances.

In 2003 all North Dakota banks are available for acquisition because all are more than five years old. Now, our community banks see interstate branching as an opportunity, rather than a threat, and, they find their opportunities for growth and diversification to be impeded by the existing law. To use the interstate banking law to expand across state lines, a North Dakota holding company must either buy or form a bank in another state. To use the interstate branching law to expand across state lines a North Dakota bank must find an out of state bank and either acquire that bank or be acquired by that bank and lose its separate existence in a merger transaction.

SB 2267 would permit North Dakota banks to establish branches in other states *de novo* (i.e., from scratch), and by acquiring an existing branch of another financial institution, as well as through a merger transaction. Before this authority can be exercised, the laws of the state other than North Dakota will also have to permit the transaction to occur. The bill will also allow banks from other states to open branches in North Dakota on the same, expanded basis. However, there is a reciprocity requirement in the bill because not all other states permit interstate branching *de novo* and through acquisition of an existing branch. With the reciprocity provision, an out of state bank may branch into North Dakota only in the same manner in which a North Dakota bank could branch into the home state of the out of state bank.

SB 2267 retains the protections of the current law in terms of regulation and supervision of interstate bank branches. State and federal regulatory approval is required for the branch transaction as appropriate. The activities of the banks through their

branches are essentially governed by the law of the state where the branch is located if that law is more restrictive than the law of the chartering state. And, the North Dakota state banking board retains supervisory and examination authority over the bank and bank branch. (The state department of financial institutions has cooperative agreements in place to facilitate examinations of interstate branches of North Dakota and out of state banks, wherever located.)

Those of you who have served in the legislature over a number of sessions may remember the controversies over past efforts to change our bank branching laws. Irrespective of the questions that existed then, today this bill is not controversial within the banking industry.

Because interstate banking laws can be complicated, I reviewed the necessary changes and the original draft for this bill with the state department of financial institutions. I understand that the department has no position in support or opposition to the bill. However the department and its counsel have reviewed the substantive changes and have advised me that they agree the bill does what we want it to do: permit interstate branching by North Dakota into other states and by out of state banks into North Dakota either by the creation of a new facility from scratch, through the acquisition of an existing branch from another financial institution, or through a merger transaction, subject only to reciprocity requirements.

With that I'd be happy to answer questions from the committee. And, then I'd like to let you hear testimony from Neil Fedjle, a Cavalier banker, whose bank's plans for expansion were scuttled by the current law.