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2007 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2295

# 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2295**

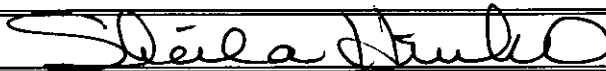
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **January 23, 2007**

Recorder Job Number: **1635**

Committee Clerk Signature



Minutes:

**Erv Mund – President St. Alexius Community Credit Union - In Favor**

## TESTIMONY # 1

Covered Testimony. Suggested amendment to drop words: "and mutual savings banks"

1. Remain state chartered constitution.

Benefit: mutual savings bank, subject to taxation. We would be able to go directly to the commissioner to get an answer rather than go through regular telephone process.

2. Would become a mutual savings bank, they would be subject to taxation.

Gate City Savings & Loan is a mutual savings bank.

**S Klein:** Will the Credit Union the ability to do what?

**E Mund:** Allows flexibility to deal with their members. How to classify a loan.

**S Klein:** So it expands your flexibility.

**E Mund:** Yes

**S Andrist:** Mutual savings bank, what can they can and can't do.

**E Mund:** Housing

**S Heitkamp:** I know banks didn't always agree with Credit Unions, how are you going to get them to cooperate.

**E Mund:** Banks look at statistics. Smaller banks have a difficult time competing with larger banks.

**Dan Chaussee – St. Alexius Community Credit Union – In Favor**

**TESTIMONY # 2**

Reviewed testimony. Proposed change would allow state credit unions to change their charters from Sate Credit Unions to a building and loan association.

**S Klein:** Can you do that under national...

**D Chaussee:** I think they can best be controlled by the state.

**Denton Zuebke – Dakota West CC - In Favor**

Been in the industry for 20 years. Bill is creating options, owned by members.

**S Potter:** Are you are of other in favor?

**D Zubke:** Yes. None here, but they do not have any opposition.

**S Potter:** Are there others who are going to advantage themselves?

**D Zubke:** None that are here, but they do not have any opposition.

**S Potter:** Are others looking at this legislation?

**D Zubke:** I do not know, I haven't spoken to anyone else.

**Rick Clayburgh – ND Bankers Association - In Favor**

The Legislative council has reviewed this bill. Appreciate how member can look at their entity, receive office assistance if needed.

**S Klein:** Do you agree with the concept?

**R Clayburgh:** We support the bill

**S Heitkamp:** [example 14:54m] Being part of the group

**R Clayburgh:** In ND we do not have a savings association. 91 member banks.

**Tim Karsky – Commissioner of ND Dept. – In Favor**

This is an industry decision. Fits the requirements for financial institution [examples 17:30m]

Needs to be re-written. [showed his positive attitude on bill]

**S Klein:** [asks to have rules in place]

**T Karsky:** State board will adopt notices. What you're doing is repealing Section 7.

**S Potter:** No fiscal note? You don't anticipate trouble?

**T Karsky:** We we're asked to do that, if we did one, there would be some charges. Publishing rules possibly several thousand dollars.

**S Potter:** If you need to do some publishing, there will be some costs.

**S Hacker:** Will you absorb that internally? What about staff time.

**T Karsky:** We'll pass the cost on. Even though the State charter will be a Federal regulator involved.

**FOR? OPPOSITION?**

**AMMENDMENTS**

**Bill 2296, DO PASS on Amendment**

**Motion by Hacker, Second by Heitkamp**

**Do Pass as Amended 6 – 0**

**Motion by Hacker, Second by Potter, Carrier Klein**





**REPORT OF STANDING COMMITTEE**

**SB 2295: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2295 was placed on the Sixth order on the calendar.**

Page 5, line 23, after the first "law" insert "and mutual savings banks law" and replace "this law relates" with "these laws relate"

Page 5, line 24, after "associations" insert "or mutual savings banks"

Renumber accordingly



2007 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2295

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2295**

## House Industry, Business and Labor

Check here for Conference Committee

Hearing Date: **5 March 2007**

Recorder Job Number: **4376**

Committee Clerk Signature



Minutes:

**Chairman Kaiser opened the hearing of SB 2295.**

**Erv Mund, president of the St Alexius Community Credit Union, testified in favor of the bill. (Testimony Attached.)**

**Chairman Kaiser:** What's the difference between a mutual savings bank and any bank that's not a mutual savings bank?

**Mund:** Stock ownership. As a mutual bank we would still be owned by the members.

**Representative Vigesaa:** So the members own the facility or the charter. How would it be different than a credit union?

**Mund:** We would be under the FDIC insurance instead of NCUA. One of the reasons for looking at this is under NCUA regulations you are restricted to 12 ¼% of your assets for commercial loans.

**Chairman Kaiser:** What would motivate somebody to want to make that switch? What are the advantages?

**Mund:** For us is to be able to make more loans basically on housing. Under NCUA regulations a duplex is considered commercial and we have a lot of individuals who would like to buy a duplex and use it as part of their retirement income. That is called a commercial loan under NCUA regulations. With the price of those these days it doesn't take too many of those

and we're at our maximum 12 ¼ %. Under banking regulations, two family houses or duplexes are not considered commercial loans.

**Representative Dietrich:** Would that also include four-plexes?

**Mund:** Yes, they are still housing.

**Dan Chaussee, chairman of the board of the St Alexius Community Credit Union, testified in favor of the bill. (Testimony Attached.)**

**Representative Jeff Delzer, District 8, testified in favor of the bill.** I just want to say "me too" to get a credit union in a situation where it can go forward. I hope that the Committee would look favorably on this.

**Tim Korsky, commissioner for the Department of Financial Institutions, testified in favor of the bill.** I wanted to walk you through a few items that the department is well aware we will have to do in the interim. We will have to develop rules to support credit unions to convert to a mutual savings bank. That will be done by the state credit union board. Secondly, Title VII that authorizes state chartered savings and loans is being repealed. We in the interim can work with the industry and we'll take the best rules that offer safety and soundness but also help the industry prosper. We are looking at WA and TX. Once we get those drafted we're working with LC to come before the next Legislative Assembly to develop those hopefully effective August 1, 2009. We lost 8 credit unions in the last several years as well as several banks because of mergers but both those industries are doing well and the total assets that we supervise continue to increase.

**Representative Clark:** Help me with this bill. This will allow a credit union to convert to a mutual savings and loan? Then is the next step in the evolution conversion to a private bank?

**Korsky:** Right now this bill is to help credit unions to convert to a savings bank. What they do after that as a state charter they could go forward. Right now the legislation is just to allow the conversion.

**Representative Clark:** We have seen savings and loans in this state convert to private

ownership and then get acquired by US Bank or others. Is this the same progression that this can take?

**Korsky:** That could happen but I believe the ND Credit Union League has also put language in the bill that individuals cannot prosper from the transaction if they go ahead and convert again.

**Representative Johnson:** Does Title VII cover building and loan associations? What happened to them?

**Korsky:** The last one we had that was a state charter was Gate City. It converted sometime in late 70s. Nothing has been done for the building and loan statutes over the last 25 – 30 years. The current statutes are almost impossible. There are so many restrictions in there that it is easier to repeal and start over.

**Representative Kaiser:** When they convert over does the membership require disappear?

**Korsky:** The way I understand it, it's still mutual company so they would have to have some membership to belong to the savings and loan. The state banking board will supervise the mutual savings bank. The FDIC would also examine this entity.

**Representative Kasper:** Who will own the new entity once it's converted?

**Korsky:** Its members. It's similar to a cooperative.

**Representative Vigesaa:** Can the credit union currently move fully to a federal savings and loan charter without going to the state charter?

**Korsky:** Right now a state chartered credit union can convert to a federal chartered credit union but there is nothing in statute that would allow them, I believe, to convert to a federal building and loan association.

**Representative Vigesaa:** Do you envision when setting rules that you set a limit as to how

big the credit union would have to be before they could make the move or could any size credit union make this change.

**Korsky:** I think anybody of any size could convert. On the smaller ones it just would not be cost effective.

**Rick Clayburgh, president and CEO of the ND Bankers Association, testified in support**

**of the bill.** Our primary reason for this is that the two federally chartered savings and loans are members of the state banking association. The whole concept from our perspective is not a competition issue, but we are also dealing with an issue that currently the only avenue members would have is to convert to a federal credit union and then to convert to a federal savings and loans. So there are extra steps. This allows the state of ND to create a state thrift and allow credit unions to convert if they would like and still be member owned. We believe it makes sense and give their members that free opportunity to do it.

**Representative Kasper:** Section 6 is a repealer do you know what it is?

**Clayburgh:** I'm going to have to defer that question.

**Chairman Kaiser:** One of the reasons for the limitations on savings and loans was that they were being directed by a board of directors that weren't members. What's the protection in this form of a bank when it's owned by the members in terms of loan quality?

**Clayburgh:** That restriction is in federal law and would also be in part of state law that there is a 20% restriction. There is some discussion nationally right now that credit unions are looking at lifting that restriction for credit unions to go to 25%. That restriction acts as a very governor to their operation.

**Korsky:** Section 6 repeals Title VII. As we talk about commercial loans in the credit union language—business loans. Some credit unions can exceed that exception and we have quite a few of those in the state of ND that do farm lending. That was their initial purpose and they

got a waiver from the NCUA and they were able to do this. Some are way over the 12%.

Fifty or sixty percent of their loan portfolio can be commercial loans and agriculture lending loans.

**Gary Tschider, representing Mid American Credit Union Association, testified neutral on the bill.** The credit unions basically are in the position that if members want to convert, it's their property and their organization and they should be able to do what they want. Rep. Clark asked a good question about where does the hopping and skipping end. Nationally, the majority of organizations that were credit unions that converted to thrifts converted to banks. There is a provision in this bill that said that officers and directors cannot financially benefit from this. Statistically those entities that converted to banks the average director benefited to the amount of \$964.0. The average return to the CEO was about \$1.5 million. That's a different situation. Once they become a thrift and they are part of the thrift law. In about two years you will be dealing with that. There was not any intent in this bill to try to control the conversion from thrift to a bank. The bill provides safeguards as far as requiring management to explain to membership what they are getting involved in. What you will see in two years will outline the rights of the owners. That's a big unknown out there.

**Representative Kasper:** In other states when this conversion has been made, how were the rights of the credit union members protected.

**Tschider:** I haven't seen much. In some states they don't have state credit union laws, they are all federally chartered.

**Representative Amerman:** On page 4, line 3, subsection a, can the majority of the directors do the same thing as a meeting of the members?

**Tschider:** The intent there was that the directors would approve the conversion concept and set a date for the members to vote.

**Vice Chairman Johnson:** I understand that we are repealing the building and loan section

but when I look forward I see that a credit union can convert to a building and loan association.

**Tschider:** That would be after July 1, 2009. We will have an entirely rule by then.

**Representative Kasper:** I don't see in the bill where it ever calls for a vote of the members to affirm that they wish to convert.

**Tschider:** If you look at line 6, it's there.

**Representative Vigesaa:** Do you have any feeling as to how many state chartered credit unions might make this move?

**Tschider:** Hopefully none. Mr. Mund and his board have indicated that they are interested in converting. No one else has indicated to me that they are interested.

**Chairman Kaiser closed the hearing of SB 2295 and asked the wishes of the Committee.**

**Chairman Kasper:** I move Do Pass.

**Representative Vigesaa:** I second.

**A roll call vote was taken: Yes: 14, No: 0, Absent: 0.**

**Vice Chairman Johnson will carry the bill**

Date: 3-5-07  
Roll Call Vote #: \_\_\_\_\_

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2295

House Industry Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep. Kasper Seconded By Rep. Vigesaa

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep. Amerman	X	
Vice Chairman Johnson	X		Rep. Boe	X	
Rep. Clark	X		Rep. Gruchalla	X	
Rep. Dietrich	X		Rep. Thorpe	X	
Rep. Dosch	X		Rep. Zaiser	X	
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigesaa	X				

Total Yes 14 No 0

Absent 0

Floor Assignment Rep. Johnson

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



**REPORT OF STANDING COMMITTEE (410)**  
March 5, 2007 4:27 p.m.

**Module No: HR-41-4489**  
**Carrier: N. Johnson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2295, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2295 was placed on the Fourteenth order on the calendar.**

2007 TESTIMONY

SB 2295

**Testimony**  
**SB 2295**

Erv Mund, President  
St. Alexius Community Credit Union

This bill will allow a State Chartered Credit Union to convert to a building and loan association or a state chartered mutual savings bank.

Federal Chartered Credit Unions are able to convert to a Federal Mutual Savings Bank, subject to NCUA rules and regulation.

There were 9984 Credit Unions nation wide in 2001. As of September 30, 2006 there were 8264. Four hundred thirty one credit unions have been merged, closed or converted in the first 9 months of 2006. There were 9 new credit union charters issued nation wide in 2005, 5 new charters in 2004, 15 in 2003, 6 in 2002 and 10 in 2001. North Dakota had 33 credit unions at the year end 2006. There have been 29 credit unions converted to Mutual Savings Banks in the last 10 years, six of those by merger. Five conversions are in process at this time. Think Credit Union aka IBM Credit Union is currently in the process. Nationwide Federal Credit Union recently merged into Nationwide Bank.

A mutual savings bank is a financial institution like Gate City.

Title 7 of the code covers Building and Loan Associations however this bill repeals Title 7. The bill calls for a study by the Department of Financial Institutions during the 2007-2008 interim and to report to the legislative council proposed bill language for a state chartered mutual savings bank.

There is a delayed implementation of this bill for that reason.

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A benefit of this legislation is that the state does not lose a charter; they would just be changing charters.

As a mutual savings bank the institution would be subject to taxation.

#1  
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Testimony of Dan Chaussee  
Industry, Business and Labor  
SB 2295

January 23, 2007

My name is Dan Chaussee and I am here today to speak on behalf of St. Alexius Community Credit Union in support of SB 2295 which is to amend section 6-06-35 of the North Dakota Century Code. Let me provide a brief description of my background and experiences.

I was raised and educated in Bismarck graduating from BJC (now Bismarck State College). I have a Bachelor of Science degree in Nursing from the University of Mary and Master of Arts in Nursing from the University of Iowa. I retired from the U.S. Army at the rank of Major with a medical disability after serving 12 years in the Army Nurse Corps. After my Army retirement, I was a professor at the University of Mary in the nursing program from 1976 to 2002. I have been a credit union member since 1980, and in 1999 was elected to the Board of Directors at the St. Alexius Community Credit Union, serving as Chairman of the Board since 2002.

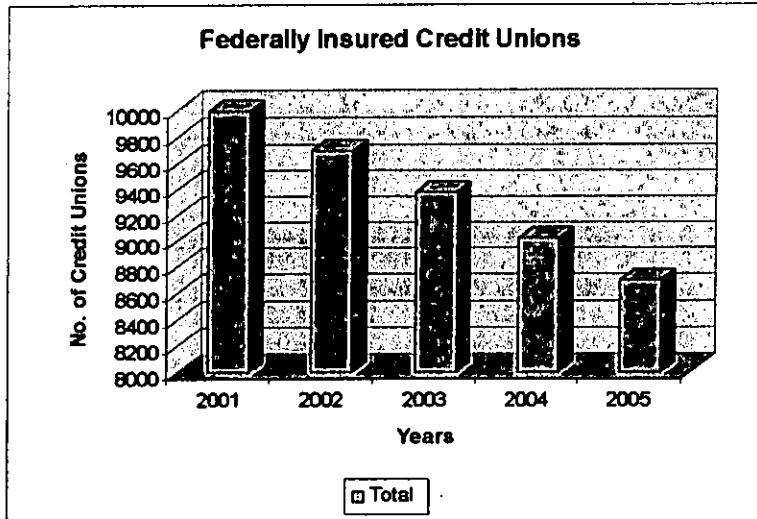
As I mentioned previously, I am here to speak in support of SB 2295 to change section 6-06-35 of the North Dakota Century Code. The proposed change would allow state credit unions to change their charters from state credit unions to a building and loan association.

We know that Governor Hoeven, Congressman Pomeroy, Senators Conrad and Dorgan have spoken about enhancing the development and prosperity of North Dakota. This bill will work towards accomplishing this goal by affording consumers with greater choice and selection of financial opportunities. Customers are demanding increased choices in where and how to finance their respective financial matters. The proposed bill will provide increased finance selection options which ultimately benefits consumers. Also, it will provide an avenue for smaller financial institutions to compete with larger financial establishments. This is necessary for the survival of our states smaller state credit unions such as St. Alexius Community Credit Union

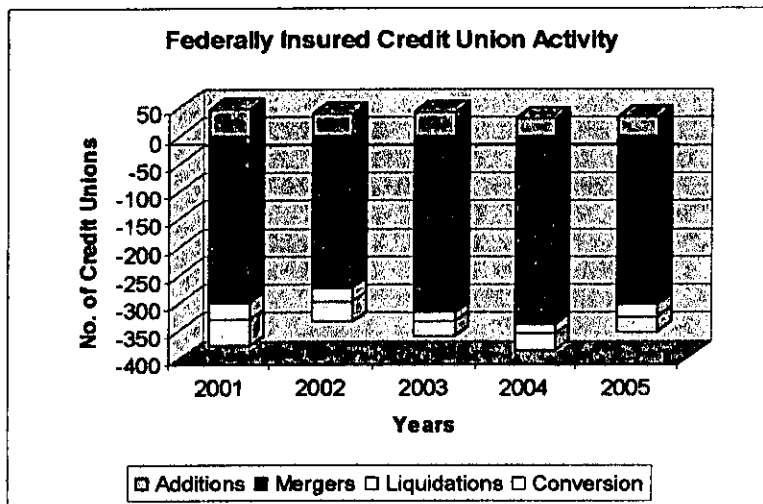
Examining what is happening on the national level relative to credit unions shows areas of concern. Generally there is move for Credit Unions to either merge with other Credit Unions in order to compete and survive or actually cease operations. This is especially true within the smaller communities of North Dakota. In some cases a merger may be good for consumers. With a merger, many members feel they loose their identity.

Nationally the graph below depicts a significant decrease in federally insured credit unions from 9,984 in 2001 to 8,695 at the end of 2005. This is 1,289 fewer CU's or a decrease of nearly 13%.

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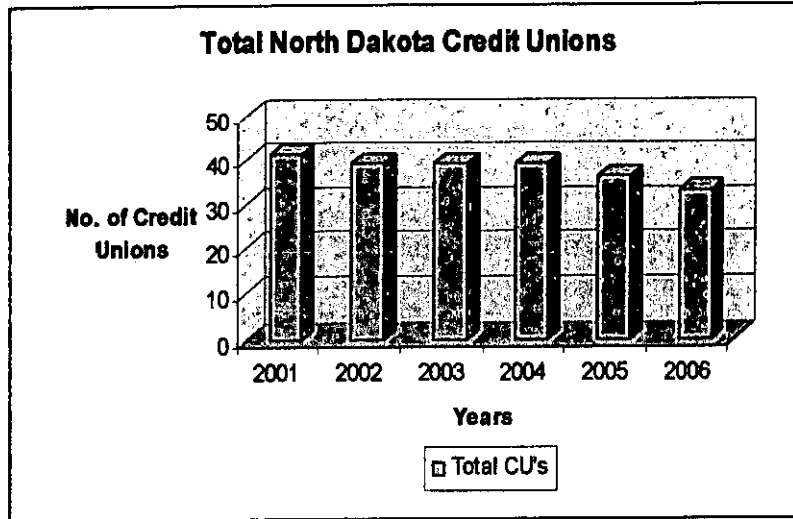
Let's look closer at the reasoning for this reduction.



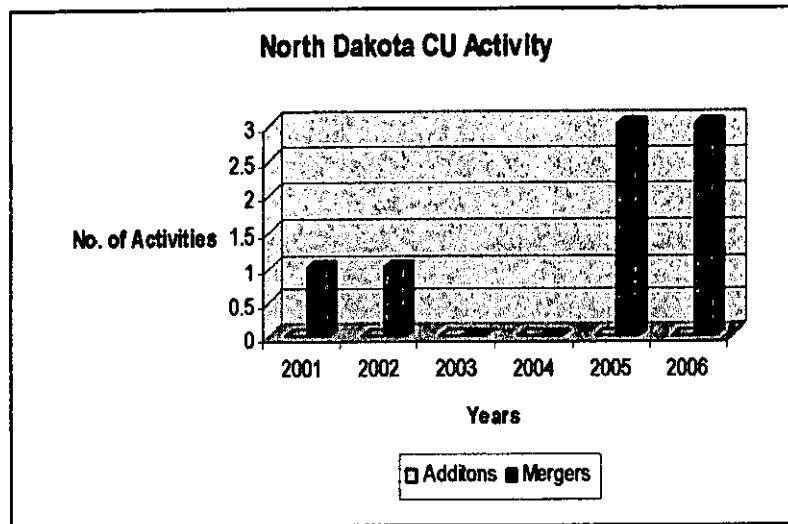
The graph above depicts the majority of the loss stemming from mergers. New charters, a component of "Additions" have only averaged 9 per year. Remember this is nationwide. For the 9 month period ending September 2006, a total of 4,389 credit unions reported membership declines for the same period, according to CUNA Mutual Group's October Credit Union Trends Report. These credit unions represented more than 24% of the movement's total assets. This represents over 50% of CU's.

Current data shows the industry having an estimated 88.7 million members and 8,737 credit unions. In October 2006, 40 credit unions ceased to exist and the movement added 71,000 members. That amount looks strong considering there was a loss of 36,000 members in October 2005 and a net loss of 125,000 members in the fourth quarter last year. In my view this is not a good view for financial consumers.

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According to information from the North Dakota Department of Financial Institutions, looking specifically at North Dakota, there has been a decrease of 8 credit unions since 2001 with 41 Credit Unions in that year and 33 at the end of 2006. Further, there have been no Credit Unions formed during the 2001-2006 with three mergers occurring each year for 2005 and 2006.



In my opinion, a continuation of this trend is not in the best interest of North Dakota citizens. Such activity will leave less competition and will afford customers fewer choices for their financial services. It may also lead to higher fees for customer services necessitated for Credit Unions to survive in an increasing competitive financial environment.

In consideration of the above, I recommend a "Due Pass" for SB 2295 to change section 6-06-35 of the North Dakota Century Code to allow state credit unions to change their charters from state credit union to a building and loan association. Thank You!!!!

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**There is a delayed implementation of this bill for that reason.**



A survey was conducted of the 50 state with 24 responding to a question allowing conversions. Twenty one states of the twenty four responding allow conversions.

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Industry, Business and Labor  
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