

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1163

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1163

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1163

**House Industry, Business and Labor Committee**

☐ Conference Committee

Hearing Date 1-11-05

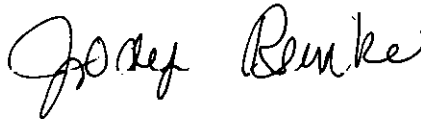
Tape Number  
1

Side A

Side B  
x

Meter #  
0.0-end

Committee Clerk Signature



Minutes:

**Chairman Keiser:** Opened the hearing on HB 1163. All committee members were present.

**Tim Karsky, Commissioner, Department of Financial Institutions:** Appeared in support of HB 1163 and provided written testimony (**SEE ATTACHED TESTIMONY**).

**Representative Dosch:** Can you tell me the capital requirements for credit unions, how does that compare with what is required for banks?

**Tim Karsky:** There are action measures on the federal level, if a credit union falls below a certain capital standard, certain actions have to take place, I believe it is 7%, its a threshold for a credit union, once they fall below 7 they have submit us a capitol plan, that will show how they will get back that 7% within a certain period of time. Banks are a little different but we do have prompt corrective action, there are certain guide lines there, I can tell you that in ND the vast majority of banks are probably well capitalized, all of our credit unions are over 70%.

**Representative Keiser:** We are making several moves here to give authority where we have specific levels are standards established in current law, we are going to give authority to the loan committee or the board to make decisions, does your office review those decisions and policies and approve them?

**Tim Karsky:** We examine credit unions currently 12 and 15 months, we look at every policy and exam, if we start to find problems we look and see where those problems are coming from, why isn't policy addressing this or who is not enforcing the policy, I would say that we are aware of what's happening and what the changes are and we will regulate it. And we would have the authority to change loan policy, with the new language, if they are making moves that unsafe and unsound we could remove management.

**Representative Keiser:** We keep allowing credit unions to change, they use to have very dedicated purposes, and affiliation, now we are going to community based credit unions and credit unions are getting so big that even with my business they are making proposals to us relative to our commercial building, to line of operation, when do they become a bank, we have a bill here that moves credit unions more like a bank, when are we going to say, from your position, that lets start operating like a bank, if your going to operate like a bank verses a credit union.

**Tim Karsky:** I'm looking out for the best interest of the credit union industry, we are going to enforce what ever you tell us to enforce, there is going to have to be changes to that industry, I'm going to tell you we are going to lose credit unions over the next 5 or 10 years, because they are just to small to operate, if we can help them out and sustain them I think we'll provide a great service I just hope we can do that

Page 3

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1163

Hearing Date 1-11-05

**Greg Tschider, ND Credit Union League:** Appeared in support of HB 1163 and provided written testimony. **(SEE ATTACHED TESTIMONY).**

**No opposition.**

**Hearing closed.**

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1163

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-12-05

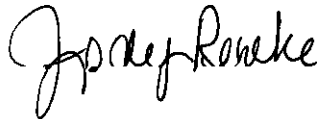
Tape Number  
2

Side A

Side B  
x

Meter #  
0-7.9

Committee Clerk Signature



Minutes:

**Chairman Keiser:** Reopened the meeting on HB 1163. All committee members were present.

**Representative Dosch:** Presented amendments to HB 1163.

**Representative Dosch:** I move the amendments to HB 1163 as I presented.

**Representative Johnson:** SECOND the motion.

All were in favor.

**Representative Dosch:** I move a **DO PASS AS AMENDED**.

**Representative Ekstrom:** SECOND the DO PASS as **AMENDED MOTION**.

**Motion carried. VOTE: 14-YES 0-NO 0-Absent.**

**Representative Dosch will carry the bill on the floor.**

**Meeting adjourned.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/14/2005

Amendment to: HB 1163

**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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues		\$0		\$1,800		\$1,800
Expenditures		\$0		\$0		\$0
Appropriations						

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

This Bill would not have any fiscal impact on the general fund and would cause very little impact on the Department of Financial Institutions regulatory fund 242.

**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.*

A small amount of revenue will be collected for the merger fees. The Department is estimating three mergers per fiscal year at \$300 each. This would equate to \$900 per fiscal year and \$1,800 for the biennium.

**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.*

No expenditures will be incurred.

**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.*

**Name:** Joan M. Becker  
**Phone Number:** 328-9958

**Agency:** Dept of Financial Institutions  
**Date Prepared:** 01/14/2005

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/03/2005

Bill/Resolution No.: HB 1163

**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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues		\$0		\$1,800		\$1,800
Expenditures		\$0		\$0		\$0
Appropriations						

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

This Bill would not have any fiscal impact on the general fund and would cause very little impact on the Department of Financial Institutions regulatory fund 242.

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

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**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.*

No expenditures will be incurred.

**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.*

Name: Joan M Becker  
Phone Number: 328-9958

Agency: Dept of Financial Inst  
Date Prepared: 01/05/2005



January 12, 2005

VR  
1/12/05

HOUSE AMENDMENTS TO HOUSE BILL NO. 1163 IBL 1-13-05

Page 1, line 3, after "reenact" insert "subdivision g of subsection 1 of section 6-01-04.3 and"

Page 1, after line 12, insert:

**"SECTION 1. AMENDMENT.** Subdivision g of subsection 1 of section 6-01-04.3 of the North Dakota Century Code is amended and reenacted as follows:

g. Violations of loan limitations under subsection ~~7~~ 1 of section 6-06-12;"

HOUSE AMENDMENT TO HB1163 IBL 1-13-05

Page 4, line 11, after the second boldfaced period insert:

"1."

Page 4, line 13, overstrike "1." and insert immediately thereafter "a."

Page 4, line 14, overstrike "2." and insert immediately thereafter "b."

Page 4, line 16, overstrike "3." and insert immediately thereafter "c."

Page 4, line 18, overstrike "4." and insert immediately thereafter "d."

Page 4, line 19, overstrike "5." and insert immediately thereafter "e."

Page 4, line 20, overstrike "6." and insert immediately thereafter "f."

Page 4, line 22, overstrike "7." and insert immediately thereafter "g."

HOUSE AMENDMENT TO HB1163 IBL 1-13-05

Page 5, line 14, overstrike "8." and insert immediately thereafter "h."

Page 5, line 15, overstrike "9." and insert immediately thereafter "i."

Page 5, line 17, overstrike "10." and insert immediately thereafter "2."

Page 5, line 23, replace "11." with "3."

Page 5, after line 24, insert:

"4. A majority of the board of directors of a credit union may not be immediate family members of each other."

Renumber accordingly

Roll Call Vote #: Date: 1-12-05  
1

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1163**

House **INDUSTRY, BUSINESS AND LABOR** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Adopt Amendments by Rep. Dosch

Motion Made By Rep. Dosch Seconded By Rep. Johnson

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigasaa	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment

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

Date: 1-12-05  
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1163

House

INDUSTRY, BUSINESS AND LABOR

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

58167.0101 .0200

Action Taken

Do Pass As Amended

Motion Made By

Rep. Dosch

Seconded By

Rep. Ekstrom

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	Y	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes)

14

No

0

Absent

0

Floor Assignment

Rep. Dosch

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

**REPORT OF STANDING COMMITTEE**

**HB 1163: Industry, Business and Labor Committee (Rep. Kelser, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1163 was placed  
on the Sixth order on the calendar.

Page 1, line 3, after "reenact" insert "subdivision g of subsection 1 of section 6-01-04.3 and"

Page 1, after line 12, insert:

**"SECTION 1. AMENDMENT.** Subdivision g of subsection 1 of section  
6-01-04.3 of the North Dakota Century Code is amended and reenacted as follows:

g. Violations of loan limitations under subsection 7~~1~~ of section 6-06-12;"

Page 4, line 11, after the second boldfaced period insert:

**"1."**

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Page 5, line 15, overstrike "9." and insert immediately thereafter "i."

Page 5, line 17, overstrike "10." and insert immediately thereafter "2."

Page 5, line 23, replace "11." with "3."

Page 5, after line 24, insert:

**"4. A majority of the board of directors of a credit union may not be immediate  
family members of each other."**

Renumber accordingly

2005 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1163

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1163

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date March 22, 2005

Tape Number	Side A	Side B	Meter #
1	X		5000 - end
		X	00 - 320

Committee Clerk Signature



Minutes:

**Senator Duane Mutch**, Chairman of the Industry, Business and Labor Committee opened the hearing on HB 1163, relating to a fee for an application to merge by two or more credit union; the use of the phrases credit union and corporate central credit union, relating to credit union reserve funds and share scaledowns.

All members of the committee were present.

**Tim Karsky**, Commissioner of the Department of Financial Institutions testified in support of HB 1163 (See attached testimony).

**Senator Duaine Espegard** asked if Section 12 regarding loan reserves cause credit unions any problems.

**Tim Karsky** answered this not to be the case as most credit unions already have a loan lose reserve at the present time. They used to have this reserve called a required reserve and transfer

money that was originally set up for loan loss reserves into that reserve and are now basically doing away with that language for the loan loss reserve.

**Senator Espegard** asked what the requirements for a loan loss reserve for a credit union.

**Tim Karsky** answered that with the federal mandates requires evaluating the risk every quarter and have the reserve in the portfolio. This is governed or controlled by the staff of the chief examiner similar to a bank.

**Tape #1, Side B 00 - 320**

**Senator Jerry Klein** asked if he had consulted with the credit unions regarding this issue.

**Tim Karsky** confirmed that he had and there is no opposition.

**Senator Espegard** asked for an explanation of "volunteer" in Section 8.

**Tim Karksy** stated the credit unions prize themselves on their volunteer board, committees, etc., that makes it all work for them.

**Senator Mutch** asked for additional testimony on HB 1163, and hearing non closed the hearing on HB 1163.

**Senator Espegard** made motion for Do Pass of HB 1163.

**Senator Klein** second the motion.

Roll call vote #1 for a Do Pass of HB 1163 was taken indicating 7 YEAS, 0 NAYS AND 0 ABSENT OR NOT VOTING.

**Senator Espegard** will carry HB 1163.

Date: 3-22-05  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1163

Senate Industry, Business, and Labor

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass  
Espesgard

Motion Made By

Seconded By

Klein

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield	X	
Senator Klein	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Espesgard	X				
Senator Nething	X				

Total (Yes)

7

No

0

Absent

0

Floor Assignment

Espesgard

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



**REPORT OF STANDING COMMITTEE (410)**  
March 22, 2005 1:54 p.m.

**Module No: SR-52-5754**  
**Carrier: Espegard**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1163, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1163 was placed on the Fourteenth order on the calendar.**

Date: 3-23-05  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1163

Senate Industry, Business, and Labor

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

reconsider Action

Motion Made By

Klein

Seconded By

Krebsbach

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield	X	
Senator Klein	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Espegard	X				
Senator Nething	X				

Total

(Yes)

7

No

0

Absent

0

Floor Assignment

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

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1163

Page 1, line 5, after "6-08-15" insert "and subsection 2 of 6-08-16"

Page 1, line 10, after "dividends," remove "and", and after "institutions" insert "and compliance with clearing house rules"

Page 10, after line 11, insert the following:

**SECTION 15. AMENDMENT.** Subsection 2 of section 6-08-16 of the North Dakota Century Code is amended and reenacted as follows:

2. The grade of an offense under this section may be determined by individual or aggregate totals of insufficient funds checks, drafts, electronic funds transfer authorizations, or orders. The person is also liable for collection fees or costs, not in excess of twenty-five dollars, which are recoverable by the holder, or its agent or representative, of the check, draft, electronic funds transfer authorization, or order. If the holder of the check, draft, electronic funds transfer authorization or order or the holder's agent or representative uses the automated clearing house network to collect the collection fees or costs, that person shall comply with the network's rules and requirements. A collection agency shall reimburse the original holder of the check, draft, electronic funds transfer authorization, or order any additional charges assessed by the depository bank of the check, draft, electronic funds transfer authorization, or order not in excess of two dollars if recovered by the collection agency. If the person does not pay the instrument in full and any collection fees or costs not in excess of twenty-five dollars within ten days from receipt of the notice of dishonor provided for in subsection 4, a civil penalty is also recoverable by civil action by the holder, or its agent or representative, of the check, draft, electronic funds transfer authorization, or order. The civil penalty consists of payment to the holder, or its agent or representative, of the instrument of the lesser of two hundred dollars or three times the amount of the instrument. The court may order an individual convicted under this section to undergo an evaluation by a licensed gaming, alcohol, or drug addiction counselor.

Renumber accordingly

March 23, 2005

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1163

*Page 1, line 3, replace the second "and" with a comma section*

Page 1, line 5, after "6-08-15" insert ", and subsection 2 of 6-08-16"

Page 1, line 10, remove the first "and" and after "institutions" insert ", and compliance with clearinghouse rules"

Page 10, after line 11, insert:

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Renumber accordingly

Date: 3-23-05  
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1163

Senate Industry, Business, and Labor

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Adopt Amendments

Motion Made By Klein

Seconded By Espegard

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield	X	
Senator Klein	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Espegard	X				
Senator Nething	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment

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

Date: 3-23-05  
Roll Call Vote #: 3

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1163

Senate Industry, Business, and Labor

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken DPAM

Motion Made By Klein

Seconded By Krebsbach

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield	X	
Senator Klein	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Espegard	X				
Senator Nething	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Espegard

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

**REPORT OF STANDING COMMITTEE**

**HB 1163, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1163 was placed on the Sixth order on the calendar.**

Page 1, line 3, replace the second "and" with a comma

Page 1, line 5, after "6-08-15" insert ", and subsection 2 of section 6-08-16"

Page 1, line 10, remove the first "and" and after "institutions" insert ", and compliance with clearinghouse rules"

Page 10, after line 11, insert:

**"SECTION 15. AMENDMENT.** Subsection 2 of section 6-08-16 of the North Dakota Century Code is amended and reenacted as follows:

2. The grade of an offense under this section may be determined by individual or aggregate totals of insufficient funds checks, drafts, electronic funds transfer authorizations, or orders. The person is also liable for collection fees or costs, not in excess of twenty-five dollars, which are recoverable by the holder, or its agent or representative, of the check, draft, electronic funds transfer authorization, or order. If the holder of the check, draft, electronic funds transfer authorization, or order or the holder's agent or representative uses the automated clearinghouse network to collect the collection fees or costs, that person shall comply with the network's rules and requirements. A collection agency shall reimburse the original holder of the check, draft, electronic funds transfer authorization, or order any additional charges assessed by the depository bank of the check, draft, electronic funds transfer authorization, or order not in excess of two dollars if recovered by the collection agency. If the person does not pay the instrument in full and any collection fees or costs not in excess of twenty-five dollars within ten days from receipt of the notice of dishonor provided for in subsection 4, a civil penalty is also recoverable by civil action by the holder, or its agent or representative, of the check, draft, electronic funds transfer authorization, or order. The civil penalty consists of payment to the holder, or its agent or representative, of the instrument of the lesser of two hundred dollars or three times the amount of the instrument. The court may order an individual convicted under this section to undergo an evaluation by a licensed gaming, alcohol, or drug addiction counselor."

Renumber accordingly

2005 TESTIMONY

HB 1163



# TESTIMONY IN SUPPORT OF HOUSE BILL NO. 1163

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.

As explained by the Department of Financial Institution, the intent of this proposed legislation is housekeeping as well as to change the law to provide the credit unions more operating flexibility. The North Dakota Credit Union League supports this bill.

Many references are made in the bill deleting "North Dakota Central Credit Union". This resulted from the fact that there is no longer a state chartered corporate credit union in North Dakota.

Section 5 of the bill provides that the Board of Directors can designate a credit union representative to set interest rates on loans and deposits. The Board of Directors of each credit union normally only meets once a month. In the fast moving financial world, review of rates every 30 days may not be adequate. Also, in negotiating rates with members, the members do not want to wait 30 days to determine if the loan is granted.

In addition, Section 5 provides that no immediate family member of the manager of the credit union may serve on the board of directors. A spouse, child, or parent of the president or manager of the credit union should not be permitted to serve on the Board. The Board hires, fires, and directs the manager of the credit union. This becomes a classic conflict of interest issue if not prohibited.

Section 7 increases the expense reimbursement limit for credit union volunteers from \$2,000 to \$5,000. Credit unions attempt to send their volunteers to workshops and seminars which will enhance the volunteer's skills in regard to credit union operations. One out-of-state seminar can cost more than \$2,000 when you consider flight costs, lodging, food, and tuition.

Section 8 is amended to permit the Board of Directors of each credit union to determine the extent and limitations of unsecured loans. It is the Board's responsibility to set loan policies, and each credit union is different. This will provide each Board the flexibility necessary.

Section 10 permits the credit union to lend up to \$100,000 to a director or committee member. The present limit of \$20,000 does not cover a reasonable loan for a car or a pickup.

The remainder of the bill addresses language changes that are necessary to conform the credit unions' accounting requirements to generally accepted accounting principles and rules of the national credit union administration.

Thank you for your time and consideration of this bill.

TESTIMONY FOR ENGROSSED HOUSE BILL NO. 1163

House Industry, Business, and Labor Committee

Testimony of Timothy J. Karsky, Commissioner, Department of Financial Institutions, in support of Engrossed House Bill No. 1163.

Chairman Keiser and members of the House Industry, Business, and Labor Committee, I am Timothy Karsky, Commissioner of the Department of Financial Institutions. I am here to testify in support of House Bill No. 1163.

Mr. Chairman and members of the Committee, House Bill No. 1163 amends several sections in Chapter 6-06 of the North Dakota Century Code pertaining to credit unions.

In Section 1 of the bill the Department is adding language that would require any two or more credit unions that merge to pay an application fee of \$300. Currently, the North Dakota Century Code does not require an application fee for mergers, yet would make a credit union pay a fee to expand its field of membership or to establish a branch. Furthermore, banks are required to pay application fees to merge, and the Department feels a fee of \$300 would be appropriate for this type of application.

Section 2 of the bill references the use of the word "credit union" and who can use the words "credit union", "corporate central credit union", or "central

credit union" in their name or title. As you will note, the additional language would allow the North Dakota Credit Union League, any chapter, affiliate, or subsidiary of the League, and any political action committee formed by credit unions organized under this Chapter or federal law to be exempt from this prohibition.

Section 3 found on page 2 of the bill is basically a housekeeping measure which changes the terminology from North Dakota Central Credit Union to any corporate central credit union.

Section 4 increases the reporting period to the Commissioner for call reports from two to four times per year, and as a practice the Commissioner has been requesting call reports on a quarterly basis. The additional amendments found in Section 4 also discuss the way a credit union may file these reports.

On Section 5 found on page 4 of the bill the Department is requesting that interest rates on loans and deposits be set by a designated representative of the board to determine these rates. Currently, the law requires the directors have this power; however, in rapid changing interest environments it would make more sense if active management of the credit union would have this ability.

Also in Section 5 found on page 5 of the bill new language has been added which states no immediate family member of the president, general manager, or chief executive officer of the credit union may serve on the board of directors of

the credit union. The Department feels this is a prudent practice for the industry and will prevent future conflicts of interest.

Section 6 adds another title that constitutes an officer of a credit union which would include chief executive officer.

In Section 7 the Department is amending that a volunteer of a credit union could receive \$5,000 per year for expenses actually incurred as a result of providing services as a volunteer. The previous limit was \$2,000 and due to the additional costs of training, it is felt this new limit is more appropriate.

Section 8 found on page 6 of the bill again changes the name from North Dakota Central Credit Union to any corporate central or corporate credit union.

Page 7 increases the limit for unsecured loans made by credit unions from \$2,500 or 1% of the credit union's total shares and deposit accounts, whichever is higher but not to exceed \$50,000, to: subject to limits approved in loan policy by the board of directors of the credit union. The Department feels this is a more appropriate way to set these limits as the board of directors is responsible for the overall operation of the credit union. Furthermore, the credit unions will still have to set these limits within their own lending limit restrictions and the Department will continue to supervise the adequacy of loan policies at regular safety and soundness examinations.

Section 9 deals with the ability for credit unions to borrow funds from other sources. The terminology has been updated to include membership capital and share deposits as a reserve fund.

Section 10 increases the amount that a director of a credit union may borrow from \$20,000 to \$100,000. It is felt the original \$20,000 when established by the Legislature is now outdated and the \$100,000 limit would be more appropriate. The Department will monitor a credit union closely during the examination process to ensure it does not incur unnecessary losses and that it follows prudent lending standards.

Section 11 deletes the terminology regarding the reserve fund and mandates that credit unions have an allowance for loan and lease loss account in accordance with generally accepted accounting principles and rules of the National Credit Union Administration. It also sets forth timelines if the credit union is found to have an inadequate loan loss reserve during the examination process.

Section 12 deals with how a credit union can pay a dividend and changes the requirements so it can pay a dividend on shares from current or accumulated net earnings or both. Furthermore, this dividend can only be paid after the credit union has provided for required reserves, accrued and unpaid expenses, and establish the loan and lease loss reserve that is adequate. Furthermore, this new language on page 9 also gives the credit union, along with the approval of its board of directors,

to authorize an interest refund to members of record at the close of business the last day of any dividend period in proportion to the interest paid during that dividend period. In addition, a credit union would not be able to pay a dividend if it would result in insolvency of the credit union.

Section 13 of the bill makes it a penalty for slandering a credit union or federal credit union. This current language applies only to banks and the Department feels it is necessary to add credit unions at this time.

Chairman Keiser and members of the Committee again I urge your support of House Bill No. 1163, and I would be happy to answer any questions you may have at this time.

Thank you.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1163

Page 5, after line 24, insert:

"12. A majority of the board of directors of a credit union may not be immediate family members."



TESTIMONY FOR HOUSE BILL NO. 1163

Senate Industry, Business, and Labor Committee

Testimony of Timothy J. Karsky, Commissioner, Department of Financial Institutions, in support of House Bill No. 1163.

Chairman Mutch and members of the Senate Industry, Business, and Labor Committee, I am Timothy Karsky, Commissioner of the Department of Financial Institutions. I am here to testify in support of House Bill No. 1163.

Mr. Chairman and members of the Committee, House Bill No. 1163 amends several sections in Chapter 6-06 of the North Dakota Century Code pertaining to credit unions.

In Section 1 of the bill the Department is adding language that would require any two or more credit unions that merge to pay an application fee of \$300. Currently, the North Dakota Century Code does not require an application fee for mergers, yet would make a credit union pay a fee to expand its field of membership or to establish a branch. Furthermore, banks are required to pay application fees to merge, and the Department feels a fee of \$300 would be appropriate for this type of application.

Section 2 of the bill references the use of the word "credit union" and who can use the words "credit union", "corporate central credit union", or "central

credit union" in their name or title. As you will note, the additional language would allow the North Dakota Credit Union League, any chapter, affiliate, or subsidiary of the League, and any political action committee formed by credit unions organized under this Chapter or federal law to be exempt from this prohibition.

Section 4 found on page 2 of the bill is basically a housekeeping measure which changes the terminology from North Dakota Central Credit Union to any corporate central credit union.

Section 5 increases the reporting period to the Commissioner for call reports from two to four times per year, and as a practice the Commissioner has been requesting call reports on a quarterly basis. The additional amendments found in Section 5 also discuss the way a credit union may file these reports.

On Section 6 found on page 4 of the bill the Department is requesting that interest rates on loans and deposits be set by a designated representative of the board to determine these rates. Currently, the law requires the directors have this power; however, in rapid changing interest environments it would make more sense if active management of the credit union would have this ability.

Also in Section 6 found on page 6 of the bill new language has been added which states no immediate family member of the president, general manager, or chief executive officer of the credit union may serve on the board of directors of

the credit union. Also, the House Industry, Business, and Labor Committee added an amendment which states a majority of the board of directors of a credit union may not be immediate family members of each other. The Department feels this is a prudent practice for the industry and will prevent future conflicts of interest.

Section 7 adds another title that constitutes an officer of a credit union which would include chief executive officer.

In Section 8 the Department is amending that a volunteer of a credit union could receive \$5,000 per year for expenses actually incurred as a result of providing services as a volunteer. The previous limit was \$2,000 and due to the additional costs of training, it is felt this new limit is more appropriate.

Section 9 found on page 7 of the bill again changes the name from North Dakota Central Credit Union to any corporate central or corporate credit union.

Page 7 increases the limit for unsecured loans made by credit unions from \$2,500 or 1% of the credit union's total shares and deposit accounts, whichever is higher but not to exceed \$50,000, to: subject to limits approved in loan policy by the board of directors of the credit union. The Department feels this is a more appropriate way to set these limits as the board of directors is responsible for the overall operation of the credit union. Furthermore, the credit unions will still have to set these limits within their own lending limit restrictions and the Department

will continue to supervise the adequacy of loan policies at regular safety and soundness examinations.

Section 10 deals with the ability of credit unions to borrow funds from other sources. The terminology has been updated to include membership capital and share deposits as a reserve fund.

Section 11 increases the amount that a director of a credit union may borrow from \$20,000 to \$100,000. It is felt the original \$20,000 when established by the Legislature is now outdated and the \$100,000 limit would be more appropriate. The Department will monitor a credit union closely during the examination process to ensure it does not incur unnecessary losses and that it follows prudent lending standards.

Section 12 deletes the terminology regarding the reserve fund and mandates that credit unions have an allowance for loan and lease loss account in accordance with generally accepted accounting principles and rules of the National Credit Union Administration. It also sets forth timelines if the credit union is found to have an inadequate loan loss reserve during the examination process.

Section 13 deals with how a credit union can pay a dividend and changes the requirements so it can pay a dividend on shares from current or accumulated net earnings or both. Furthermore, this dividend can only be paid after the credit union has provided for required reserves, accrued and unpaid expenses, and establish the

loan and lease loss reserve that is adequate. Furthermore, this new language on page 9 also gives the credit union, along with the approval of its board of directors, to authorize an interest refund to members of record at the close of business the last day of any dividend period in proportion to the interest paid during that dividend period. In addition, a credit union would not be able to pay a dividend if it would result in insolvency of the credit union.

Section 14 of the bill makes it a penalty for slandering a credit union or federal credit union. This current language applies only to banks and the Department feels it is necessary to add credit unions at this time.

Chairman Mutch and members of the Committee again I urge your support of House Bill No. 1163, and I would be happy to answer any questions you may have at this time.

Thank you.