INDEPENDENT COMMUNITY BANKS of NORTH DAKOTA

Senate Bill 2266

Presented by:	Barry Haugen, President Independent Community Banks of North Dakota ("ICBND")
Before:	House Industry, Business, and Labor Committee Representative Scott Louser, Chairman
Date:	March 29, 2023

Chairman Louser and members of the House Industry, Business, and Labor Committee (Committee), my name is Barry Haugen, and I am President of the Independent Community Banks of North Dakota (ICBND). ICBND strongly opposes Engrossed Senate Bill 2266.

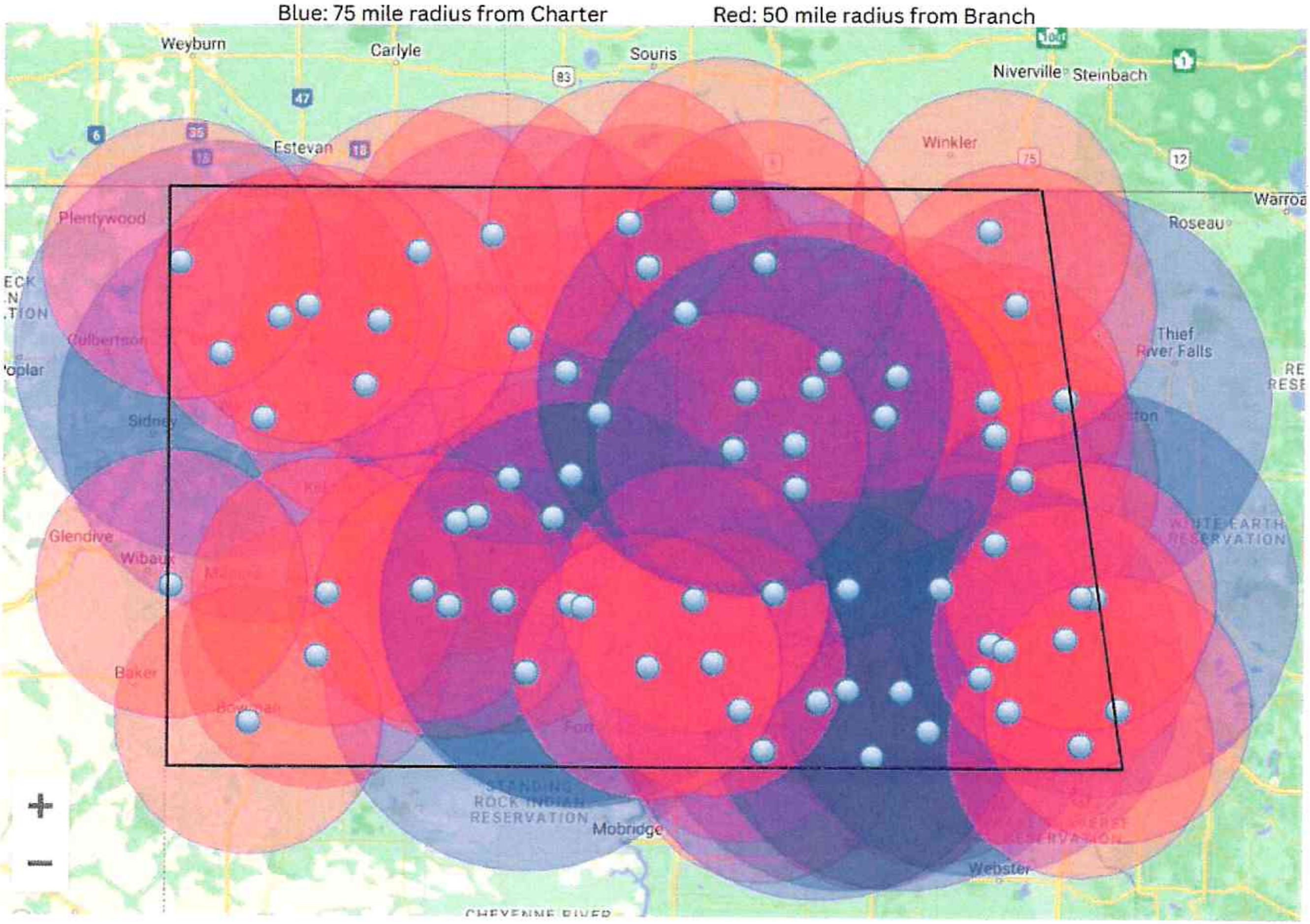
ICBND membership totals 50 independent community banks throughout our state. 30 of those charters are in communities of less than 4500 citizens. Only one of ICBND's members is a publicly traded entity. The other 49 are closely held with most being family-and-employee owned.

Engrossed SB 2266 seeks to significantly alter the credit union membership section of North Dakota Century Code in the interest of relatively unfettered expansion for certain credit unions at the expense of credit unions that may wish to protect their service area. And passage of this bill would certainly infringe upon the tax paying community banks that have effectively served their communities as Main Street stalwarts for decades. We believe allowing for the further expansion of not-for-profit, nontax paying entities is not good public policy.

The map at the top of the 2nd page of my testimony gives a graphic representation that certainly questions the need for this legislation. It shows that the 19 state-chartered credit unions and their 111 branches, under the rules as they currently exist, have done an exemplary job of covering the state of North Dakota with respect to fields of membership. There are no areas of North Dakota where a citizen can not be a member of a state-chartered credit union and in most cases, citizens have multiple options for membership. And again, this graphic represents only state-chartered credit unions and does not include any of the 13 federal-chartered credit unions or their branches. We're not challenging the world as it is today. We are, however, adamantly opposed to the proposed expansion. Quite simply, the legislation enacted by your predecessors during the 2005 Legislative Assembly is working as represented by the map.

ND Chartered Credit Unions ONLY - Current Coverage
75 Mile Radius From Charter - 50 Mile Radius From Branch

Blue: 75 mile radius from Charter   Red: 50 mile radius from Branch



Engrossed Senate Bill 2266 proposes to change the geographic radius of membership from **75 miles from the credit union main office to 125 miles**. Linearly, this of course is a 50-mile increment. But from an aerial expansion perspective (in other words, the field of membership "footprint"), this is a **near tripling** of the service area of each and every North Dakota credit union charter.

If passed, this legislation would further tilt the already uneven and inequitable playing field that exists in the state as it relates to the two primary industry groups providing financial services – (1) credit unions who pay no federal or state income taxes and are not subject to the full set of regulations that community banks face, including Community Reinvestment Act rules; and (2) tax paying banks.

The credit union tax exemption is based on an outdated 100-year-old law that has never been revisited. Since that time, credit unions have become larger, more complex, and bank-like in their size, powers, product and service offerings, and fields of membership. With these changes, they've also assumed more risk. Credit unions were chartered by Congress to enable people of small means with a "common bond" to pool their resources to meet their basic deposit, savings and borrowing needs. While some credit unions operate that way today, this bill seeks to grow the membership and markets of other credit unions well beyond their statutory mission.

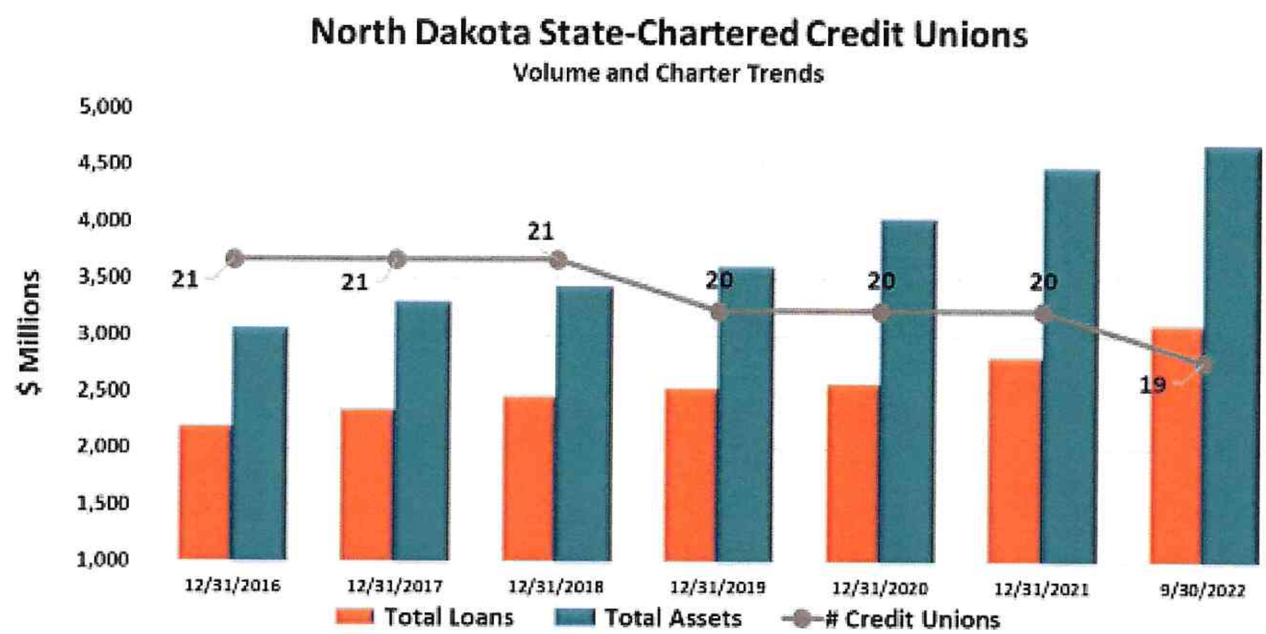
The Community Reinvestment Act (CRA) rules require banks to help meet the credit needs of the communities in which they do business, including low-and moderate-income neighborhoods. Credit unions are exempt from these rules presumably due to their intended membership by "common bond or occupation or association, or to groups within a well-defined neighborhood, community, or rural district". A 125-mile radius, which equates to nearly 50,000 square miles, for membership does not fit that intent. Tim Karsky will give you some perspective on the costs that his bank alone incurs relative to this singular regulation.

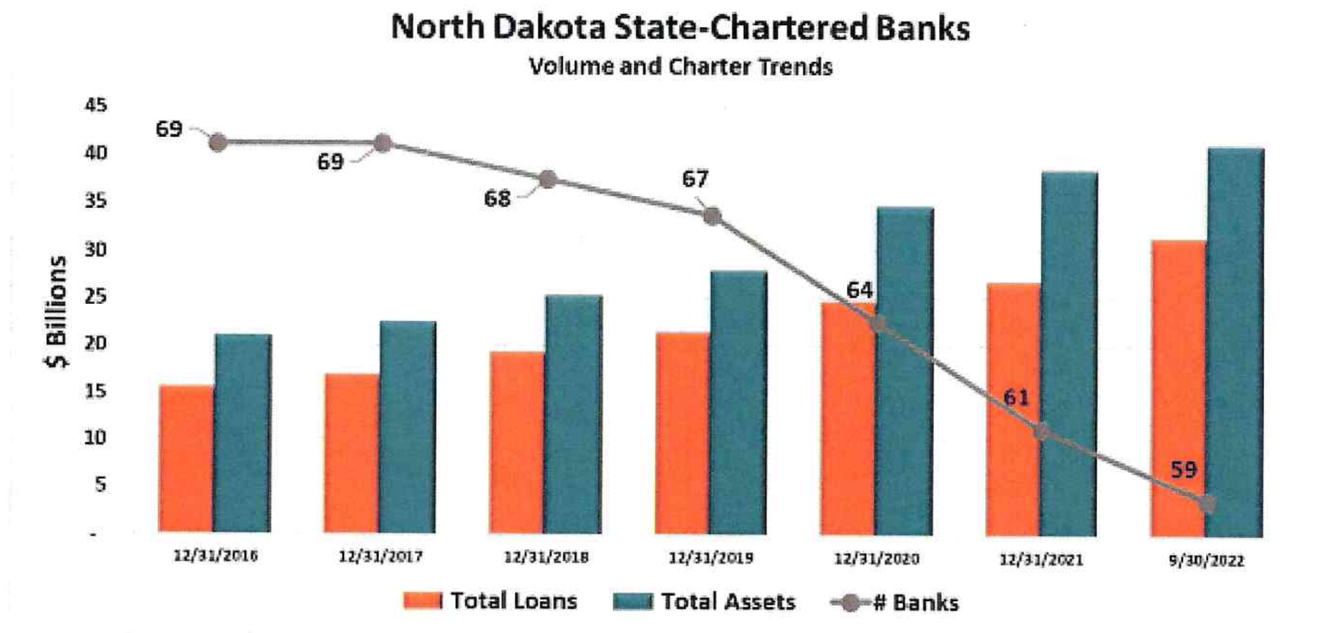
Credit unions should not be allowed to have it both ways. They want to keep all the tax and regulation exemptions of the original intent but cast off any geographical limitations that provided for those exemptions. The bargain made for federal and state income tax exemption rightfully comes with restrictions – field of membership being one.

Speaking of taxes, based on the FDIC's year-end 2022 data and applying the appropriate income tax rates, the income produced by North Dakota-headquartered banks will result in nearly $30 million of income tax revenue for the state of North Dakota in 2023. Credit unions will pay zero.

Given this background, I now go back to my original question when this legislation was introduced - what is this bill trying to solve? I've already shown graphically that there are no "financial service deserts" in the state for state-chartered credit unions. So, then my next question is whether the growth of credit unions has somehow been stymied by its field of membership rules in state code.

The data would indicate there have not been growth constraints on credit unions. Quite the opposite in fact. North Dakota Department of Financial Institutions, in their budget bill testimony, reported that the total assets of state-chartered credit unions grew by 18 percent from 12/31/2020 through 12/31/ 2022. By comparison, state-chartered banks grew total assets by 17 percent over the same period.





Source: North Dakota Department of Financial Institutions

Again, the graphs above me indicate that the total asset growth rate of financial institutions in North Dakota has been robust over the last two years and even slightly more robust by credit unions. While the number of state-chartered banks have declined by 10 since 2016, the number of state-chartered credit unions have declined by only two while credit union branches have grown by 14 locations to 111 across the state.

You've heard the threat from proponents of this legislation that the field of membership rules enacted following the 2005 Legislative Assembly have hamstrung the growth of state-chartered credit unions and may force consideration of federal chartering. The 18 percent growth in total assets over two years of those same credit unions would lead me to believe growth has not been hampered. Also, if that were the case, why haven't more credit unions already converted, or begun the process to convert, to federal charters? The 19 state-chartered credit unions account for over $4.7 billion in total assets at year-end 2022. Their 13 federal counterparts in North Dakota accounted for less than one-tenth of that amount, or about $460 million in total assets. Choosing a primary regulator is a weighty decision and field of membership is just one aspect of that decision-making process. Remember that the NCUA, in their draft 2023 strategic plan, strongly encouraged credit unions to adjust or limit their ag lending. I suspect that such a regulatory philosophy does not work well for North Dakota credit unions.

In conclusion, as I see it, none of the data presented would indicate impediments to growth for credit unions in the state which brings me back again to the question – what is this bill trying to solve?

Chairman Louser and members of the House Industry, Business, and Labor Committee, ICBND sees no legitimate public policy reason to pass this legislation and respectfully requests that the Committee not amend the bill and place a "do not pass" recommendation on Engrossed Senate Bill 2266. Thank you for your time and attention.