FARLEIGH WADA WITT

Harold B. Scoggins, III
Attorney
Admitted in Oregon and Washington

hscoggins@fwwlaw.com

121 SW Morrison Street, Suite 600
Portland, Oregon 97204
phone 503.228.6044
fax 503.228.1741
www.fwwlaw.com

February 22, 2021

TESTIMONY IN SUPPORT OF HB 3079
Before the Senate Committee on Business and Labor

Harold B. Scoggins, III
Farleigh Wada Witt
Counsel for the Northwest Credit Union Association

Good morning Chair Holvey and members of the committee. My name is Harold Scoggins. I am an attorney with Farleigh Wada Witt, outside counsel for the Northwest Credit Union Association. Our firm also represents many individual credit unions throughout Oregon, Washington, Idaho, and across the U.S. I appreciate the opportunity to talk with you today about HB 3079. I will provide some brief comments on legal aspects of the bill and will be happy to answer questions.

HB 3079 is a result of the Northwest Credit Union Association's continuing efforts to improve and modernize the Oregon Credit Union Act to strengthen the attractiveness of the Oregon state charter for credit unions and to better address the current operational, regulatory, and financial climate in which credit unions operate. The bill makes four changes to the Oregon Credit Union Act that will help credit unions remain nimble in providing financial services, and clarify certain provisions.

Section 1: Update to Parity Provision

The Credit Union Act includes a provision intended to grant Oregon state chartered credit unions powers and authorities available to federally chartered institutions and institutions in other states even if those powers and authorities are not expressly stated elsewhere in Oregon law. To avoid an unconstitutional delegation of legislative authority, this provision has a "strike date" – essentially, an "as of" date by which a power must be available to a federal credit union or credit union from another state in order to be covered by the statute. If a power becomes available to a federal or out of state credit union after the strike date, the Oregon chartered credit union must seek approval from the Department of Consumer and Business Services before exercising that power. Section 2 of the bill updates the "strike date" for exercise of the parity powers. Updating the strike date is simply a legislative "best practice" that should be included in any amendment to the Credit Union Act.

Sections 2 and 3: Membership Eligibility

Under Oregon's current community charter provision, a credit union may offer membership to persons living or working in, and organizations located in, a local community area. This

language needs to be updated to reflect modern financial and cultural reality and to avoid unnecessary lack of clarity. The lack of clarity arises from the term "local." This term is imprecise and has generated substantial litigation at the federal level. The statute clearly specifies that a single political subdivision constitutes a well-defined community, and offers principles for determining whether multiple political jurisdictions can be treated as a single community. The use of the term "local" is superfluous and could lead to questions as to whether additional criteria not listed in the statute should also be applied. Deleting the term will make the process for credit unions to apply for, and the Division of Financial Regulation to approve, community fields of membership much more straightforward.

In addition, the idea that credit unions should only serve a single community is antiquated in today's financial and cultural marketplace. This bill would permit Oregon state chartered credit unions to serve more than one community. Field of membership would still be limited to a specified geographic area that consists of one community or multiple communities, which could be delineated as counties, cities, districts, or other political subdivisions. In other words, a credit union could serve one county, two counties, or thirty-six counties, as approved by the regulator. Consumers expect services to be available without artificial boundaries or service limits. The substantial distances travelled by Oregon consumers last summer to receive the special $500 payments authorized by the legislature (and distributed largely by credit unions) provides ample evidence of that fact.

Section 4: Mergers

Oregon's credit union merger statute does not currently permit mergers of a community credit union with an occupational or associational field of membership. In times when a credit union is distressed, the regulators may wish to allow the credit union to merge with another credit union in order to avoid erosion of the first credit union's financial strength. If the ideal credit union partner's field of membership is incompatible with the distressed credit union's field of membership, the credit unions cannot merge without giving up one of the fields of membership. The Federal Credit Union Act permits the National Credit Union Administration to approve mergers of federal credit unions in such circumstances with retention of both fields of membership. This bill will provide the Oregon regulator with the same authority that is available to the federal regulator, with the same prerequisites for exercising the authority. The conditions for exercising this authority are drawn from the text of 12. U.S.C. § 1785(h), with minor stylistic changes.

Section 5: Affiliate (Credit Union Service Organization) Investments

ORS 723.602 currently permits credit unions to invest in a corporation or limited liability company if the company's primary purpose is to provide services to credit unions or to credit union members, **and** the company is majority owned by credit unions. This bill will eliminate the majority ownership requirement. This will allow credit unions to invest in a company that primarily serves credit unions or their members even if credit unions do not hold a majority stake in the company.

It is increasingly common for credit unions to partner with each other and with outside parties to drive innovation or to provide services more efficiently through economies of scale. These activities are often handled through a separate company referred to as a "credit union service organization" or "CUSO" that is owned by the credit unions and other interested parties. For example, an innovator with a new technology for mobile banking may participate with credit unions to form a CUSO to develop and implement the new technology in those credit unions. If an Oregon credit union participates in the CUSO, the innovator may only hold a minority interest. On the other hand, neither federal credit unions nor credit unions from neighboring states are subject to such a requirement. This

Portland · 121 SW Morrison Street, Suite 600, Portland, Oregon 97204
Central Oregon · Five Pine Station, 750 Buckaroo Trail, Suite 203, Sisters, Oregon 97759

can create difficulties for Oregon credit unions if the third party wishes to retain a majority interest in the company and it makes business sense to do so.

Allowing this flexibility in the ownership of companies in which credit unions may invest will not alter the limitations on permissible activities for such companies – they must be primarily engaged in providing services to credit unions or their members. In addition, credit unions must report to the Division of Financial Regulation with financial and organizational data on all investments in CUSOs. Allowing Oregon state chartered credit unions to invest in companies with more flexible ownership requirements simply puts Oregon's credit unions on a level playing field with federal credit unions and credit unions from other states.

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