

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By **CHAIRMAN BACHINI** on January 8, 1991, at 8:30 a.m.

ROLL CALL

Members Present:

Bob Bachini, Chairman (D)
Sheila Rice, Vice-Chairman (D)
Joe Barnett (R)
Steve Benedict (R)
Brent Cromley (D)
Tim Dowell (D)
Alvin Ellis, Jr. (R)
Stella Jean Hansen (D)
H.S. "Sonny" Hanson (R)
Tom Kilpatrick (D)
Dick Knox (R)
Don Larson (D)
Scott McCulloch (D)
Bob Pavlovich (D)
John Scott (D)
Don Steppler (D)
Rolph Tunby (R)
Norm Wallin (R)

Staff Present: Paul Verdon, Legislative Council
Jo Lahti, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: This was an introductory meeting until 9:00 a.m. Members introduced themselves. Chairman Bachini explained Committee rules.

HEARING ON HOUSE BILL 19

Presentation and Opening Statement by Sponsor:

REP. HAL HARPER, House District 44, Helena, explained HB 19 was necessary to remedy an oversight. The State Credit Union Act needs to be consistent with the Federal Credit Union Act. The entire section is almost word for word from the Federal Act but the language in subsection 11 has been left out of the Montana law. This attempts to define accurately the capital position of a credit union which is based on percentage of assets to loans. HB 19 talks about first secured loans against the amount of savings you may have in the credit union which should not be defined as

at risk because your savings will be frozen in the amount of the loan. It should be covered in all cases. He introduced Bob Pyfer.

Proponents' Testimony:

Bob Pyfer, Vice President of Government Affairs, Montana Credit Union League, explained the League represents 95 of Montana's 100 credit unions. Credit unions are non-profit financial cooperatives, totally member-owned and controlled. Each member has one vote in all major decisions regardless of the amount of shares they have on deposit. There are no capital stockholders and are run by boards of directors who are volunteers elected from the membership. There are 18 state chartered credit unions and 82 federally chartered credit unions in Montana. HB 19 would amend the State Credit Union Act to correct an oversight and provide parity with the Federal Credit Union Act by amending the definition of 'at risk' assets for reserve purposes by exempting shares-secured loans. It inserts language from the federal regulation into Montana statutes. EXHIBIT 1, the Federal Credit Union Act, has pertinent portions marked.

Page 1, lines 11-13 is the existing state law 32-3-704 where risk assets are defined. "For the purpose of establishing the reserves required, all assets except the following are considered risk assets." New language on page 2, lines 10-12, subsection 11 says that "loans fully secured by a pledge of shares in the lending credit union, equal to and maintained to at least the amount of the loan outstanding", means that share-secured loans are no longer considered risk assets. They have no objections to other minor changes required by administrative processes in drafting style. The bill essentially creates parity by exempting share-secured loans.

A share-secured loan is one where a specific account of share savings in a credit union is pledged to secure the loan. The account is frozen at the amount at least equal to the amount owing on the loan at any given time. There is virtually no risk involved with it and that is why federal regulations and federal law exempts them from the definitions.

The state regulator for state chartered credit unions is the Financial Division of the Department of Commerce. They have indicated HB 19 is a good housekeeping procedure and have no problem with the bill. Don Hutchinson, Commissioner, Financial Division, is present to answer questions.

Questions from Committee Members:

REP. PAVLOVICH asked Mr. Hutchinson if he is in accord with this. He answered yes.

REP. WALLIN asked if it could be assumed that the shareholder who had borrowed money against his shares would have an advantage over a non-borrower. Mr. Pyfer said that was a proper assumption,

but there is insurance covering the depositors who haven't borrowed under the National Credit Union Shares Fund which has the same coverage as the FDIC. It is a separate fund for credit unions, but it has the same coverage up to \$100,000 for each account. It is a stronger fund dollar for dollar. It is smaller because credit unions only have one-twentieth of the assets. Dollar for dollar, the first \$100 of deposits is at this point \$1.28 per hundred where banks percentages are much lower. It is a good insurance fund. It is very rare in Montana to have commercial loans up to \$100,000. In order to get federal insurance all credit unions in Montana, whether they are federally chartered or state chartered, are insured by the same fund. Under the National Credit Union Insurance Fund you have to submit to some very strict regulations. For business loans they have to be under \$25,000. Basically it is for loans under \$25,000. They can go higher, but it is very, very heavily regulated.

REP. WALLIN asked if that meant the borrower wouldn't ever be a benefactor. Mr. Pyfer answered yes. The person who had the shares to loan is still going to have to pay that money back. Even if the credit union were to go under, the government is going to come in to insure that fund. A correct definition of risk assets for purposes of setting up reserves should be an accurate showing of assets that are truly at risk. Some financial regulators look at ratios, one of which is capital reserve to assets which are at risk. In order to get an accurate picture, those risk assets ought to be defined in an accurate manner. Banks have an entirely different system of reserve which is very complicated. They reserve a certain percentage against a certain type of asset. Credit unions reserve their entire assets before being exempted. The test in this case is to list items truly at risk separate from those that are not.

REP. HARPER closed.

DISPOSITION OF HOUSE BILL 19

Motion/Vote: REP. WALLIN MOVED HB 19 DO PASS. Motion carried with 17 members voting aye. Rep. Cromley was called to another committee and was absent.

ADJOURNMENT

Adjournment: 10:15 a.m.



REP. BOB BACHINE, Chairman



JO LAHTI, Secretary

BB/jl

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

DATE Jan. 8, 1991

[illegible]

1-8-91
3:25
11:40

STANDING COMMITTEE REPORT

January 8, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic
Development report that House Bill 19 (first reading copy --
white) do pass.

Signed: _____
Bob Bachini, Chairman

EXHIBIT 1DATE 1-8-91HB 19**Part 700****§700.1 Definitions.**

As used in this chapter:

(a) "Act" means the Federal Credit Union Act (73 Stat. 628, 84 Stat. 944, 12 U.S.C. 1751 - 1795(k)).

(b) "Administration" means the National Credit Union Administration.

(c) "Board" means the National Credit Union Administration Board.

(d) "Credit Union" means a credit union chartered under the Federal Credit Union Act or, as the context permits, under the laws of any State.

(e) "Regional Director" means the representative of the Administration in the designated geographical area in which the office of the Federal credit union is located.

(f) "Regional Office" means the office of the Administration located in the designated geographical area in which the office of the Federal credit union is located.

(g) "State" means a State of the United States, the District of Columbia, any of the several Territories and possessions of the United States and the Commonwealth of Puerto Rico.

(h) "Remaining maturity" is the time period from the date of the required reserve transfer to the stated date of maturity of the instrument.

(i) For the purpose of establishing the reserves required by Section 116 of the Federal Credit Union Act, all assets except the following shall be considered risk assets:

(1) Cash on hand.

(2) Deposits and/or shares in federally or stated insured banks, savings and loan associations, and credit unions that have a remaining maturity of 3 years or less.

(3) Assets that have a remaining maturity of 3 years or less and are insured by, fully guaranteed as to principal and interest by, or due from the U.S. Government, its agencies, the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or the Government National Mortgage Association. Collateralized mortgage obligations that are comprised of government guaranteed mortgage loans shall be included in this asset category.

(4) Loans to other credit unions that have a remaining maturity of 3 years or less.

(5) Student loans insured under the provisions of Title IV, Part B of the Higher Education Act of 1965 (20 U.S.C. 1071, et seq.) or similar state insurance programs that have a remaining maturity of 3 years or less.

(6) Loans that have a remaining maturity of 3 years or less and are fully insured or guaranteed by the Federal or a state government or any agency of either.

(7) Shares or deposits in a central or corporate credit union that have a remaining maturity of 3 years or less. For purposes of defining risk assets a central or corporate credit union is defined as a credit union whose membership primarily consists of:

(i) Other credit unions organized under state or Federal law,

(ii) Officials, committee members, and employees of any credit union organized under state or Federal law, or

(iii) Any combination of the categories described in subdivisions (i) and (ii) of this subparagraph.

(8) Common trust investments, including mutual funds, which deal exclusively in investments authorized by the Federal Credit Union Act that are either carried at the lower cost or market, or are marked to market value monthly.

(9) Prepaid expenses.

(10) Accrued interest on non-risk investments.

(11) Loans fully secured by a pledge of shares in the lending Federal credit union, equal to and maintained to at least the amount of the loan outstanding.

(12) Loans which are purchased from liquidating credit unions and guaranteed by the National Credit Union Administration.

(13) National Credit Union Share Insurance Fund Guaranty Accounts established with the authorization of the National Credit Union Administration under the authority of Section 208(a)(1) of the Federal Credit Union Act.

(14) Investments in shares of the National Credit Union Administration Central Liquidity Facility.

Definitions

HB 19

(15) Investments in numbered items 2,3,4,5,6, and 7, with maturities greater than 3 years are exempt from risk assets if the investment is being carried on the credit union's records at the lower of cost or market, or are being marked to market value monthly.

(16) Fixed Assets as defined in Section 701.36(b).

(17) Deposit in the National Credit Union Share Insurance Fund representing a federally insured credit union's capitalization account balance of one percent of insured shares.

(j) (1) *Insolvency.* A credit union will be determined to be insolvent when the total amount of its shares exceeds the present cash value of its assets after providing for liabilities unless:

(i) It is determined by the Board that the facts that caused the deficient share-asset ratio no longer exist; and

(ii) The likelihood of further depreciation of the share-asset ratio is not probable; and

(iii) The return of the share-asset ratio to its normal limits within a reasonable time for the credit union concerned is probable; and

(iv) The probability of a further potential loss to the insurance fund is negligible.

(2) For purposes of this section, the following definitions are used:

(i) "Cash value of assets." Recorded value will be considered the cash value of any asset account providing accepted accounting principles and practices are followed and the provisions of law, regulation, and bylaws are met.

(ii) "Liabilities." Recorded liabilities which are due and payable, excluding shares of members and nonmembers, are considered liabilities.

(k) For purposes of determining the amount required to be transferred to regular reserves under Sections 116 and 201(b)(6) of the Federal Credit Union Act, "gross income" means the total of the operating income accounts reduced by the following.

(1) Dividends received on shares in the National Credit Union Administration Central Liquidity Facility;

(2) Dividends received by credit unions on special share accounts held in Agent members of the Central Liquidity Facility authorized by § 725.7 of this chapter; and

(3) Interest received by an Agent member of the Central Liquidity Facility to the extent of interest paid to the Facility by the Agent member. In the case of an Agent member of the Central Liquidity Facility that is a group of central credit unions—

(i) Interest received by the Agent group representative, as defined in § 725.1(b) of this chapter, to the extent of interest paid to the Facility by the Agent group representative; and

(ii) Interest received by each central credit union in the Agent group (other than the Agent group representative) to the extent of interest paid by each such central credit union to the Agent group representative on Agent group representative loans, as defined in § 725.1(b) of this chapter. Nonoperating gains and losses are not included in gross income.

WITNESS STATEMENT

NAME Donald G. McInnis BILL NO. HR-18

ADDRESS 250 Bacon St. New York NY

WHOM DO YOU REPRESENT? Financial Workers

SUPPORT ☒ OPPOSE ☐ AMEND ☐

COMMENTS:

Form CS-34
Rev. 1985

VISITORS' REGISTER

Business & Econ. Dev. COMMITTEE

BILL NO. HB 19

DATE Jan 8, 1991

SPONSOR Rep. Harper

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.