

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By CHAIRMAN JOHN HERTEL, on March 26, 1997, at
9:00 A.M., in ROOM 410

ROLL CALL

Members Present:

Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Bea McCarthy (D)

Members Excused: Sen. Debbie Bowman Shea (D)

Members Absent: None

Staff Present: Bart Campbell, Legislative Services Division
Mary Gay Wells, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 238; 3/12/97
Executive Action: HB 238

{Tape: 1; Side: A; Approx. Time Count: 9:04 AM; Comments: N/A.}

HEARING ON HB 238

Sponsor: REP. RAY PECK, HD 91, HAVRE

Proponents: Bob Pyfer, MT Credit Unions League
Myrtle White, Treasure State Corporate Credit
Union
Don Hutchinson, Financial Division, Dept. of
Commerce

Opponents: None

Opening Statement by Sponsor:

REP. RAY PECK, HD 91, HAVRE. Basically, HB 238 was originally a housekeeping bill but with the amendments, it makes it a little bit more involved. It covers five different things. It conforms dividend payments to federal law. Federal law says you must pay those on all shares outstanding and we have been paying them on a term called "paid up shares". So if you had a \$25 membership account, it only went on the intervals of \$25. If you had \$37 you were only paid for \$25. You had to go to the next \$50 to get paid more dividends. The second one is the trigger amount or board approval on loans to officials. It used to be \$2,500 and now it will go to \$20,000. The third item was to revise capital account and capital reserve requirements for corporate credit unions to conform with federal law. The fourth item was to formally allow credit unions to set up funeral trusts. The last item is the Treasure State Corporate Credit Union amendments that would conform our law to the new federal regulations.

Proponents' Testimony:

Bob Pyfer, MT Credit Unions League. Thank you for your patience. We did need to wait for the National Credit Union Administration to finalize its regulations on corporate credit unions. We do have amendments (**EXHIBIT 1**) that we will submit and they deal with the new regulations. This bill is a technical amendments bill to the State Credit Union Act which applies to our state charter credit unions in Montana. We have 12 state charter credit unions in Montana and the remaining 74 credit unions are federally chartered credit unions.

In going through the bill briefly, I will elaborate a little bit on each of the sections. In Section 1 on dividend payments, we had a fully paid up shares concept that was preempted by the Federal Truth in Savings Act. We having been paying for several years on the total amount in the account anyway, but that was clearly preempted by the Truth in Savings Act. This will conform us to that Act.

Section 2 relates to loans to board members who incidentally are uncompensated volunteers elected by and from the membership. It also relates to loans to volunteer committee members and loans to employees. As the law currently reads, all loans to one of those individuals, if it aggregates to more than \$2,500, has to be reported or approved by the board of directors. This amount has not been changed since 1975. This bill would increase that amount to \$20,000 which is the current amount for federal credit unions.

The amendments primarily address the newly adopted federal regulations relating to corporate credit unions. However, the first three amendments that you see do relate to this section on loans. (He explains the amendments.) We decided to go with just reporting to the board and not for their approval. This is

contained in the federal charters. We then realized that our state law applies to loans to employees and the federal credit union act does not apply to loans to employees. As introduced, the bill actually could have created an additional burden for state charter credit unions. These amendments will make the section internally consistent but will avoid the increased burden for state charter credit unions. It will not be exactly the same for state and federally chartered, but by going to reporting language rather than approval language, it is much less cumbersome as an operational matter.

Sections 3 through 6 of the bill and the remainder of the amendments deal with the corporate credit union regulations. Corporate credit union is a credit union's credit union providing liquidity, investment and correspondent services to natural personal credit unions. We have one corporate credit union in Montana. It is Treasure State Corporate Credit Union and **Myrtle White, Chief Executive Officer** is with us and will explain Sections 4 through 6 and the remainder of the amendments. She will be talking about the financial side of the corporate provisions. Section 3 is just a grammatical correction.

In Section 7 most of the changes are just style changes made by the Legislative Services Division. The only substantive changes in both Section 7 and 8 are specifically to include credit unions in the list of financial institutions that can hold funeral plan trust accounts. We had received an opinion letter from the Chief Counsel to the Department of Commerce indicating that she believed we were not included. This will clarify that and make sure that we are included in that.

Myrtle White, Chief Executive Officer, Treasure State Corporate Credit Union. My testimony relates to Sections 4, 5 and 6 and the new section 9. The amendments are necessary because the National Credit Union Administration just adopted a revised Regulation 704 for corporate credit unions and they completed that on March 7. Treasure State is a corporate credit union and we serve natural personal credit unions and their organizations in Montana. Eighty-four of the 86 credit unions in Montana are members of Treasure State and 8 organizations of credit unions are members. We provide these people with a variety of investment options for their excess dollars.

Treasure State comes under these rules because and as a condition of us accepting deposits for federally insured credit unions. That is the way NCUA extends its regulations to state chartered corporates because they say if you are accepting deposits from federally insured credit unions then you may have to comply with further rules--our rules. The bill in Section 4 adopts the terminology of the federal rules which refers to membership capital rather than to membership share accounts. Section 4 also allows a corporate credit union to issue member and non-member paid in capital. Section 5, which further addresses the issuance of capital accounts, now require them to have a three-year notice

for withdrawal instead of the 12-month notice. The three-year notice further defines the permanence of these accounts in meeting the criteria for "at risk" capital. The amendments define their availability to cover losses and the types of accounts which would be considered membership capital under the new regulations. The amendments further go on to define the conditions for withdrawal of membership capital and how Treasure State would have to recognize these funds following a notice to withdraw.

Section 6: in 1992 the National Credit Union Administration adopted a "risk weighting" posture which allowed corporate credit unions to compare their capital to be at not at risk. It is generally felt that risk weighting of assets and risk weighting of capital allowed us to compare more accurately with other financial institutions. However, the new regulation no longer addresses risk weighting assets or calculating risk-based capital ratios. We still feel it is a valuable tool for us to track and we will probably continue to do so. We do support this bill's deletion of the reference to risk weighting our assets and calculating risk-based capital.

The proposed amendments add a new section and that is Section 9. This defines and authorizes paid in capital accounts and the terms and conditions under which these accounts can be offered to members and non-members of Treasure State. Paid in capital accounts have an even more extensive requirement which adds to their permanence and assures their availability to absorb losses in a corporate credit union if necessary.

It is important for Treasure State to be able to continue to offer membership capital accounts to our member credit unions in order to meet the current and the new capital standards. While Treasure State may or may not offer paid in capital, having this authority simply gives us another method and a new option for raising additional capital. We believe it is appropriate to develop that authority with this rule change we are presenting today.

Treasure State supports the dual chartering system. We feel it is important for us to remain a state chartered corporate credit union and that our law be consistent with the federal rules to allow us this state charter option. Thank you for your attention.

Don Hutchinson, Banking & Financial Division, Department of Commerce. We do regulate 12 of the 86 credit unions in the state including the state corporate. We have worked closely with both the Credit Union League and the specific credit unions on arriving at the final language in this bill. Thank you.

Opponents' Testimony: None

{Tape: 1; Side: A; Approx. Time Count: 9:23 AM; Comments: N/A.}

Questions From Committee Members and Responses:

SEN. CASEY EMERSON said there seems to be just a few things that are only a change in words. How important is this? REP. PECK replied that the language is very similar but the reason is to bring the language into today's understanding and to keep things consistent through a bill.

SEN. JOHN HERTEL asked that if, with the amendments that are on this bill and the House did not have, the main reason for the additional amendments is the be in compliance with the federal act? REP. PECK said yes.

SEN. STEVE BENEDICT asked what is the amount that banks operate under for a threshold for loans to their employees or to officers of the bank? Mr. Bill Leary, MT Bankers' Association, replied that he did not know. Mr. Hutchinson said that two entirely different entities are involved in this question. A banking institution's lending limitations are set by a percentage of the capital surplus such as 10% of their capital surplus is all that could be loaned to individuals. Those same restrictions apply to members of the board and employees of the bank.

SEN. BENEDICT said that the original bill called for board approval and now that is being stricken. It used to be \$2,500 and now this is being raised to \$20,000 and not requiring board approval, just reporting. What is the reasoning for softening this? Mr. Pyfer replied that a report to the board is really just as good as an approval. To do an actual prior approval to the board would require at the very least some sort of telephone poll of the board members. Otherwise the loan would have to be held up till the next board meeting. SEN. BENEDICT asked if there had been thought given to some kind of a stairstep process to get to this \$20,000 depending on the size of the credit union? Mr. Pyfer said that isn't something that they had considered. What they were trying to do was to provide parity with the federal credit union act which went from \$10,000 to \$20,000. The overall idea is to insure against insider dealing and there are plenty of other protections against that already. There are annual examinations from state and/or federal regulators.

SEN. EMERSON inquired which is the smallest credit union in deposits in Montana? Ms. White thought Mission Arts Federal Credit Union in Ashland. The deposits are about \$50,000. It serves the Indian College and the community. But this credit union would not make a loan of \$20,000 to anyone. Their own internal policies and the review of those by NCUA would limit them. I doubt if they would even make a \$2,500 loan.

Closing by Sponsor:

REP. PECK closed. Thank you for the interesting questions. The credit unions in Montana range in deposits from \$50,000 to \$200 million. They are varied and have their own criteria in terms of loans. In Havre, we have a limit of \$10,000 and then they must go through the credit committee for anything above that. And that would then be reported to the board of directors. We have a supervisory committee and we examine all loans in the Havre Credit Union. The law may say \$20,000 but the board of directors may say \$5,000. Thank you for your consideration.

{Tape: 1; Side: A; Approx. Time Count: 9:35 AM; Comments: N/A.}

EXECUTIVE ACTION ON HB 238

Motion: SEN. BEA MCCARTHY MOVED HB 238 BE CONCURRED IN.

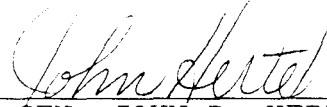
Amendments: SEN. STEVE BENEDICT MOVED TO AMEND HB 238 (EXHIBIT 1) hb023801.abc.

Vote: THE MOTION TO AMEND CARRIED UNANIMOUSLY: 6-0

Motion/Vote: SEN. BENEDICT MOVED HB 238 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. SPRAGUE WILL CARRY.

ADJOURNMENT

Adjournment: 9:37 A.M.



SEN. JOHN R. HERTEL, Chairman



MARY GAY WELLS, Secretary

JH/MGW