

HOUSE BILL NO. 182

INTRODUCED BY BACHINI, CHRISTIAENS, BENEDICT, PECK

IN THE HOUSE

JANUARY 14, 1993

INTRODUCED AND REFERRED TO COMMITTEE  
ON BUSINESS & ECONOMIC DEVELOPMENT.

FIRST READING.

JANUARY 21, 1993

COMMITTEE RECOMMEND BILL  
DO PASS. REPORT ADOPTED.

JANUARY 22, 1993

PRINTING REPORT.

JANUARY 23, 1993

SECOND READING, DO PASS.

JANUARY 25, 1993

ENGROSSING REPORT.

JANUARY 26, 1993

THIRD READING, PASSED.  
AYES, 96; NOES, 0.

TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 28, 1993

INTRODUCED AND REFERRED TO COMMITTEE  
ON BUSINESS & INDUSTRY.

FIRST READING.

FEBRUARY 9, 1993

COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

FEBRUARY 10, 1993

SECOND READING, CONCURRED IN.

FEBRUARY 11, 1993

THIRD READING, CONCURRED IN.  
AYES, 50; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

FEBRUARY 12, 1993

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 182  
 2 INTRODUCED BY Becker Summit  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
 5 LAWS RELATING TO CENTRAL CREDIT UNIONS; CHANGING THE  
 6 TERMINOLOGY FROM "CENTRAL" TO "CORPORATE" CREDIT UNION;  
 7 REVISING MEMBERSHIP REQUIREMENTS; REGULATING CONFLICTS OF  
 8 INTEREST; SUBJECTING THE RIGHTS AND POWERS OF A CORPORATE  
 9 CREDIT UNION TO REGULATION BY THE DEPARTMENT OF COMMERCE;  
 10 CREATING CAPITAL SHARE ACCOUNTS FOR CORPORATE CREDIT UNION  
 11 MEMBERS; REGULATING INVESTMENT IN FIXED ASSETS; REGULATING  
 12 THE RATIO OF RISK-BASED CAPITAL RESERVES TO RISK-WEIGHTED  
 13 ASSETS; PROVIDING FOR AN ANNUAL AUDIT; REQUIRING WRITTEN  
 14 AGREEMENTS WHEN SHARING SERVICES, FACILITIES, PERSONNEL, OR  
 15 EQUIPMENT; AMENDING SECTIONS 32-3-801, 32-3-802, 32-3-803,  
 16 AND 32-3-804, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
 17 DATE."  
 18

19 STATEMENT OF INTENT

20 A statement of intent is required for this bill because  
 21 it delegates rulemaking authority to the department of  
 22 commerce. A "corporate" credit union is one that serves  
 23 other credit unions. Other credit unions become members of  
 24 the corporate credit union. The member credit unions may  
 25 borrow from the corporate credit union if necessary and may

1 invest excess funds with it. The corporate credit union may  
 2 also provide to its members other financial services, such  
 3 as correspondent check collection and automated funds  
 4 transfer services.

5 The national credit union administration has adopted  
 6 extensive new regulations applicable to federally chartered  
 7 corporate credit unions, and it has also effectively made  
 8 the regulations applicable to state-chartered corporate  
 9 credit unions by prohibiting federally insured credit unions  
 10 from investing in a corporate credit union that is not in  
 11 compliance with the new regulations. All credit unions in  
 12 Montana are federally insured. Therefore, in adopting rules  
 13 pursuant to this bill, the department shall substantially  
 14 conform with Title 12, part 704, Code of Federal  
 15 Regulations.  
 16

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 Section 1. Section 32-3-801, MCA, is amended to read:

19 "32-3-801. Organization. Any central A corporate credit  
 20 union may be organized and operated under this chapter and  
 21 is subject to all such provisions not inconsistent with this  
 22 chapter. Such The credit union shall use the term "central"  
 23 "corporate" in its official name."

24 Section 2. Section 32-3-802, MCA, is amended to read:

25 "32-3-802. Membership Purpose -- membership. (1) A

corporate credit union must be operated primarily for the purpose of serving other credit unions.

(2) Membership in such-central a corporate credit union may must include, but not be limited to

{1} credit unions organized and operating under this chapter or under any other credit union law.

(3) Membership may also include:

{2}(a) officers, directors, committee members, and employees of such credit unions; officials and employees of any association of credit unions; and employees of federal or state government agencies responsible for the supervision of credit unions in this state; or

{3}(b) organizations and associations of those persons or organizations enumerated in subsections {1} and (2) and (3)(a).

{4} employees of an employer with insufficient numbers to form or conduct the affairs of a separate credit union;

{5} persons in the field of membership of liquidated credit unions or of credit unions which have entered into or are about to enter into voluntary or involuntary liquidation proceedings; or

{6} members of the immediate families of all members qualified above.

(4) The membership of a corporate credit union may not include more than seven natural persons as described in

subsection (3)(a)."

**Section 3.** Section 32-3-803, MCA, is amended to read:

**"32-3-803. Voting representative -- conflict of interest. (1)** Each credit union becoming that is a member of such-central a corporate credit union may designate one person to be its voting representative in the central corporate credit union, which The person shall must be designated by the board of directors of the member credit union. Such The voting representative shall must be eligible to hold office in the central corporate credit union as if such the person were himself a member of the central corporate credit union.

(2) (a) A director, committee member, officer, agent, or employee may not in any manner participate in the deliberation or determination of any question affecting that person's personal pecuniary interest.

(b) A director, officer, agent, or employee may not in any manner participate in the determination of any matter material in amount, as defined by rule by the department, affecting the pecuniary interest of any corporation, partnership, or association, other than the corporate credit union, in which that person has a direct or indirect interest, except for matters involving payment of dividends to the membership.

(3) The department shall adopt rules implementing this

1 section in substantial conformance with Title 12, part 704,  
2 Code of Federal Regulations."

3 **Section 4.** Section 32-3-804, MCA, is amended to read:

4 "32-3-804. Additional rights and powers -- department  
5 rules. (1) ~~A--central~~ Except as limited by this part and  
6 rules adopted pursuant to this part, a corporate credit  
7 union shall--have has all of the rights and powers of any  
8 other credit union organized under this chapter and the  
9 additional rights and powers specified in this section;  
10 ~~notwithstanding--any--limitations--or---restrictions---found~~  
11 ~~elsewhere-in-this-chapter part.~~

12 (2) A ~~central~~ corporate credit union may, as permitted  
13 by rules of the department, make loans to other credit  
14 ~~unions--purchase--shares-of-other-credit-unions--and-obtain~~  
15 ~~or-acquire-the-assets-and-liabilities-of--any--credit--union~~  
16 ~~operating--in--this--state-which-enters-into-liquidation and~~  
17 provide correspondent services and other financial services  
18 to other credit unions.

19 (3) A ~~central~~ corporate credit union may, as permitted  
20 by rules of the department, invest in and grant loans to  
21 associations of credit unions, central funds of credit  
22 unions, or organizations chartered to provide service to  
23 credit unions.

24 (4) A ~~central~~ corporate credit union may, as permitted  
25 by rules of the department, borrow and accept money from any

1 source and issue notes or debentures.

2 (5) A corporate credit union may, as permitted by rules  
3 of the department, make reasonable and prudent investments.

4 (6) The department shall adopt rules governing  
5 corporate credit union loans, borrowing, investments,  
6 strategic planning, funds management, capital goals, and  
7 services. The rules must be in substantial conformance with  
8 Title 12, part 704, Code of Federal Regulations.

9 (7) A corporate credit union may issue membership  
10 capital share deposit accounts as provided in [section 5].

11 ~~(5)(8)~~ (8) A central corporate credit union with corporate  
12 shareholdings equal to or in excess of 95% of its total  
13 assets may, by vote of its board of directors, +

14 (a) elect exemption of insurance on share accounts  
15 under the provisions of Title II of the Federal Credit Union  
16 Act;

17 ~~(b)--borrow--from--any-source-an-amount-not-in-excess-of~~  
18 ~~three-times-its-total-assets-after-deduction--of--the--notes~~  
19 ~~payable-account--however--with-prior-written-approval-of-the~~  
20 ~~director-of-the-department-of-commerce--the-credit-union-may~~  
21 ~~exceed-such-limitation--and~~

22 ~~(c)--make-loans-to-any-member-in-an-aggregate-amount-not~~  
23 ~~in--excess--of--20%--of--the--central--credit--union's-total~~  
24 ~~assets."~~

25 NEW SECTION. Section 5. Membership capital share

1 deposits. (1) A corporate credit union may issue membership  
2 capital share deposit or MCS D accounts to members.

3 (2) (a) For purposes of this section, "membership  
4 capital share deposit" or "MCS D account" means a share,  
5 deposit, or other account that:

6 (i) is established, at a minimum, as a 12-month notice  
7 account;

8 (ii) is limited to members;

9 (iii) is not subject to share insurance coverage by the  
10 national credit union share insurance fund or other deposit  
11 insurers; and

12 (iv) in the event of liquidation of the corporate credit  
13 union, is payable only after satisfaction of all liabilities  
14 of the liquidation estate, including uninsured obligations  
15 to shareholders and the national credit union share  
16 insurance fund.

17 (b) An MCS D account is not repayable until notice is  
18 given by the account holder credit union that the account  
19 holder credit union intends to withdraw MCS D account funds  
20 from the corporate credit union, except in the case of a  
21 credit union that is placed into liquidation, is purchased  
22 and assumed, or is merged.

23 (3) An MCS D account may not be used to pledge  
24 borrowings.

25 (4) Corporate credit unions that issue MCS D accounts

1 shall disclose at least annually to their members the terms  
2 and conditions under which the accounts are issued.

3 NEW SECTION. Section 6. Fixed assets -- department  
4 rules. (1) A corporate credit union may not invest in fixed  
5 assets if the aggregate of those investments would exceed  
6 15% of capital, unless the credit union receives prior  
7 written approval from the department and the national credit  
8 union administration board.

9 (2) The department shall adopt rules for the  
10 administration of subsection (1) and for governing ownership  
11 of fixed assets by a corporate credit union. The rules must  
12 be in substantial conformance with Title 12, part 704, Code  
13 of Federal Regulations.

14 NEW SECTION. Section 7. Corporate reserves --  
15 department rules. (1) A corporate credit union shall  
16 maintain a minimum ratio of risk-based capital reserves to  
17 risk-weighted assets according to rules adopted by the  
18 department in substantial conformance with Title 12, part  
19 704, Code of Federal Regulations.

20 (2) The department shall adopt rules for the  
21 administration of subsection (1).

22 NEW SECTION. Section 8. Annual audit. (1) The  
23 supervisory committee of a corporate credit union shall  
24 require an annual opinion audit to be made by an  
25 independent, licensed certified public accountant and shall

1 submit the audit report to the board of directors. A summary  
2 of the audit report must be submitted to the membership at  
3 the next annual meeting.

4 (2) The auditor's workpapers must be made available for  
5 review by state and federal regulatory examiners during any  
6 examination conducted by the examiners.

7 (3) A copy of the audit report and reportable  
8 conditions letter, otherwise known as the management letter,  
9 must be submitted to the department and the national credit  
10 union administration within 30 days after receipt by the  
11 board of directors.

12 NEW SECTION. Section 9. Contracts and written  
13 agreements. Services, facilities, personnel, or equipment  
14 shared with any party must be supported by a written  
15 contract or agreement that specifies the duties and  
16 responsibilities of each party and that fully supports and  
17 documents the allocation of service fees and expenses.

18 NEW SECTION. Section 10. Codification instruction.  
19 [Sections 5 through 9] are intended to be codified as an  
20 integral part of Title 32, chapter 3, part 8, and the  
21 provisions of Title 32, chapter 3, part 8, apply to  
22 [sections 5 through 9].

23 NEW SECTION. Section 11. Effective date. [This act] is  
24 effective on passage and approval.

-End-

APPROVED BY COMM. ON BUSINESS  
AND ECONOMIC DEVELOPMENT

1 House BILL NO. 182  
2 INTRODUCED BY Baskin Benjamin  
3 Perk  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
5 LAWS RELATING TO CENTRAL CREDIT UNIONS; CHANGING THE  
6 TERMINOLOGY FROM "CENTRAL" TO "CORPORATE" CREDIT UNION;  
7 REVISING MEMBERSHIP REQUIREMENTS; REGULATING CONFLICTS OF  
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9 CREDIT UNION TO REGULATION BY THE DEPARTMENT OF COMMERCE;  
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12 THE RATIO OF RISK-BASED CAPITAL RESERVES TO RISK-WEIGHTED  
13 ASSETS; PROVIDING FOR AN ANNUAL AUDIT; REQUIRING WRITTEN  
14 AGREEMENTS WHEN SHARING SERVICES, FACILITIES, PERSONNEL, OR  
15 EQUIPMENT; AMENDING SECTIONS 32-3-801, 32-3-802, 32-3-803,  
16 AND 32-3-804, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
17 DATE."

18 STATEMENT OF INTENT

19 A statement of intent is required for this bill because  
20 it delegates rulemaking authority to the department of  
21 commerce. A "corporate" credit union is one that serves  
22 other credit unions. Other credit unions become members of  
23 the corporate credit union. The member credit unions may  
24 borrow from the corporate credit union if necessary and may  
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1 invest excess funds with it. The corporate credit union may  
2 also provide to its members other financial services, such  
3 as correspondent check collection and automated funds  
4 transfer services.

5 The national credit union administration has adopted  
6 extensive new regulations applicable to federally chartered  
7 corporate credit unions, and it has also effectively made  
8 the regulations applicable to state-chartered corporate  
9 credit unions by prohibiting federally insured credit unions  
10 from investing in a corporate credit union that is not in  
11 compliance with the new regulations. All credit unions in  
12 Montana are federally insured. Therefore, in adopting rules  
13 pursuant to this bill, the department shall substantially  
14 conform with Title 12, part 704, Code of Federal  
15 Regulations.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Section 32-3-801, MCA, is amended to read:

18 "32-3-801. Organization. Any central A corporate credit  
19 union may be organized and operated under this chapter and  
20 is subject to all such provisions not inconsistent with this  
21 chapter. Such The credit union shall use the term "central"  
22 "corporate" in its official name."  
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24 Section 2. Section 32-3-802, MCA, is amended to read:

25 "32-3-802. Membership Purpose -- membership. (1) A

1 corporate credit union must be operated primarily for the  
 2 purpose of serving other credit unions.

3 (2) Membership in such-central a corporate credit union  
 4 may must include;-but-not-be-limited-to:-

5 {1} credit unions organized and operating under this  
 6 chapter or under any other credit union law;.

7 (3) Membership may also include:

8 {2}{a} officers, directors, committee members, and  
 9 employees of such credit unions;-officials-and-employees-of  
 10 any-association-of-credit-unions;-and-employees--of--federal  
 11 or-state-government-agencies-responsible-for-the-supervision  
 12 of-credit-unions-in-this-state; or

13 {3}{b} organizations and associations of those persons  
 14 or organizations enumerated in subsections {1}-and (2) and  
 15 (3)(a);.

16 {4}--employees--of-an-employer-with-insufficient-numbers  
 17 to-form-or-conduct-the-affairs-of-a-separate-credit-union;

18 {5}--persons-in-the-field-of--membership--of--liquidated  
 19 credit-unions-or-of-credit-unions-which-have-entered-into-or  
 20 are-about-to-enter-into-voluntary-or-involuntary-liquidation  
 21 proceedings;-or

22 {6}--members--of--the--immediate-families-of-all-members  
 23 qualified-above;

24 (4) The membership of a corporate credit union may not  
 25 include more than seven natural persons as described in

1 subsection (3){a})."

2 **Section 3.** Section 32-3-803, MCA, is amended to read:

3 "32-3-803. Voting representative -- conflict of  
 4 interest. (1) Each credit union becoming that is a member of  
 5 such-central a corporate credit union may designate one  
 6 person to be its voting representative in the central  
 7 corporate credit union;. which The person shall must be  
 8 designated by the board of directors of the member credit  
 9 union. Such The voting representative shall must be eligible  
 10 to hold office in the central corporate credit union as if  
 11 such the person were himself a member of the central  
 12 corporate credit union.

13 (2) (a) A director, committee member, officer, agent,  
 14 or employee may not in any manner participate in the  
 15 deliberation or determination of any question affecting that  
 16 person's personal pecuniary interest.

17 (b) A director, officer, agent, or employee may not in  
 18 any manner participate in the determination of any matter  
 19 material in amount, as defined by rule by the department,  
 20 affecting the pecuniary interest of any corporation,  
 21 partnership, or association, other than the corporate credit  
 22 union, in which that person has a direct or indirect  
 23 interest, except for matters involving payment of dividends  
 24 to the membership.

25 (3) The department shall adopt rules implementing this



1 section in substantial conformance with Title 12, part 704,  
 2 Code of Federal Regulations."

3 **Section 4.** Section 32-3-804, MCA, is amended to read:

4 "32-3-804. Additional rights and powers -- department  
 5 rules. (1) A--central Except as limited by this part and  
 6 rules adopted pursuant to this part, a corporate credit  
 7 union shall--have has all of the rights and powers of any  
 8 other credit union organized under this chapter and the  
 9 additional rights and powers specified in this section;  
 10 notwithstanding--any--limitations--or---restrictions---found  
 11 elsewhere-in-this-chapter part.

12 (2) A central corporate credit union may, as permitted  
 13 by rules of the department, make loans to other credit  
 14 unions;--purchase--shares-of-other-credit-unions;--and-obtain  
 15 or-acquire-the-assets-and-liabilities-of--any--credit--union  
 16 operating--in--this--state-which-enters-into-liquidation and  
 17 provide correspondent services and other financial services  
 18 to other credit unions.

19 (3) A central corporate credit union may, as permitted  
 20 by rules of the department, invest in and grant loans to  
 21 associations of credit unions, central funds of credit  
 22 unions, or organizations chartered to provide service to  
 23 credit unions.

24 (4) A central corporate credit union may, as permitted  
 25 by rules of the department, borrow and accept money from any

1 source and issue notes or debentures.

2 (5) A corporate credit union may, as permitted by rules  
 3 of the department, make reasonable and prudent investments.

4 (6) The department shall adopt rules governing  
 5 corporate credit union loans, borrowing, investments,  
 6 strategic planning, funds management, capital goals, and  
 7 services. The rules must be in substantial conformance with  
 8 Title 12, part 704, Code of Federal Regulations.

9 (7) A corporate credit union may issue membership  
 10 capital share deposit accounts as provided in [section 5].

11 (5)(8) A central corporate credit union with corporate  
 12 shareholdings equal to or in excess of 95% of its total  
 13 assets may, by vote of its board of directors,

14 (a) elect exemption of insurance on share accounts  
 15 under the provisions of Title II of the Federal Credit Union  
 16 Act;

17 (b) borrow--from--any-source-an-amount-not-in-excess-of  
 18 three-times-its-total-assets-after-deduction--of--the--notes  
 19 payable-account;--however,--with-prior-written-approval-of-the  
 20 director-of-the-department-of-commerce,--the-credit-union-may  
 21 exceed-such-limitation;--and

22 (c) make loans to any member in an aggregate amount not  
 23 in-excess--of--20%--of--the--central--credit--union's-total  
 24 assets."

25 NEW SECTION. Section 5. Membership capital share

1 deposits. (1) A corporate credit union may issue membership  
2 capital share deposit or MCSD accounts to members.

3 (2) (a) For purposes of this section, "membership  
4 capital share deposit" or "MCSD account" means a share,  
5 deposit, or other account that:

6 (i) is established, at a minimum, as a 12-month notice  
7 account;

8 (ii) is limited to members;

9 (iii) is not subject to share insurance coverage by the  
10 national credit union share insurance fund or other deposit  
11 insurers; and

12 (iv) in the event of liquidation of the corporate credit  
13 union, is payable only after satisfaction of all liabilities  
14 of the liquidation estate, including uninsured obligations  
15 to shareholders and the national credit union share  
16 insurance fund.

17 (b) An MCSD account is not repayable until notice is  
18 given by the account holder credit union that the account  
19 holder credit union intends to withdraw MCSD account funds  
20 from the corporate credit union, except in the case of a  
21 credit union that is placed into liquidation, is purchased  
22 and assumed, or is merged.

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24 borrowings.

25 (4) Corporate credit unions that issue MCSD accounts

1 shall disclose at least annually to their members the terms  
2 and conditions under which the accounts are issued.

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5 assets if the aggregate of those investments would exceed  
6 15% of capital, unless the credit union receives prior  
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8 union administration board.

9 (2) The department shall adopt rules for the  
10 administration of subsection (1) and for governing ownership  
11 of fixed assets by a corporate credit union. The rules must  
12 be in substantial conformance with Title 12, part 704, Code  
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15 **department rules.** (1) A corporate credit union shall  
16 maintain a minimum ratio of risk-based capital reserves to  
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18 department in substantial conformance with Title 12, part  
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23 supervisory committee of a corporate credit union shall  
24 require an annual opinion audit to be made by an  
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1 submit the audit report to the board of directors. A summary  
2 of the audit report must be submitted to the membership at  
3 the next annual meeting.

4 (2) The auditor's workpapers must be made available for  
5 review by state and federal regulatory examiners during any  
6 examination conducted by the examiners.

7 (3) A copy of the audit report and reportable  
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19 [Sections 5 through 9] are intended to be codified as an  
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21 provisions of Title 32, chapter 3, part 8, apply to  
22 [sections 5 through 9].

23 NEW SECTION. Section 11. Effective date. [This act] is  
24 effective on passage and approval.

-End-

1 House BILL NO. 182

2 INTRODUCED BY Braden Benoit

3 Perk

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9 employees of such credit unions;-officials-and-employees-of  
10 any-association-of-credit-unions;-and-employees--of--federal  
11 or-state-government-agencies-responsible-for-the-supervision  
12 of-credit-unions-in-this-state; or

13 {3}{b} organizations and associations of those persons  
14 or organizations enumerated in subsections {1}-and (2) and  
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16 {4}-employees--of-an-employer-with-insufficient-numbers  
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18 {5}-persons-in-the-field-of-membership-of--liquidated  
19 credit-unions-or-of-credit-unions-which-have-entered-into-or  
20 are-about-to-enter-into-voluntary-or-involuntary-liquidation  
21 proceedings;-or

22 {6}-members--of--the--immediate-families-of-all-members  
23 qualified-above.

24 (4) The membership of a corporate credit union may not  
25 include more than seven natural persons as described in

1 subsection (3){a}."

2 **Section 3.** Section 32-3-803, MCA, is amended to read:

3 "32-3-803. Voting representative -- conflict of  
4 interest. (1) Each credit union becoming that is a member of  
5 such-central a corporate credit union may designate one  
6 person to be its voting representative in the central  
7 corporate credit union; which The person shall must be  
8 designated by the board of directors of the member credit  
9 union. Such The voting representative shall must be eligible  
10 to hold office in the central corporate credit union as if  
11 such the person were himself a member of the central  
12 corporate credit union.

13 (2) (a) A director, committee member, officer, agent,  
14 or employee may not in any manner participate in the  
15 deliberation or determination of any question affecting that  
16 person's personal pecuniary interest.

17 (b) A director, officer, agent, or employee may not in  
18 any manner participate in the determination of any matter  
19 material in amount, as defined by rule by the department,  
20 affecting the pecuniary interest of any corporation,  
21 partnership, or association, other than the corporate credit  
22 union, in which that person has a direct or indirect  
23 interest, except for matters involving payment of dividends  
24 to the membership.

25 (3) The department shall adopt rules implementing this

1 section in substantial conformance with Title 12, part 704,  
2 Code of Federal Regulations."

3 **Section 4.** Section 32-3-804, MCA, is amended to read:

4 "32-3-804. Additional rights and powers -- department  
5 rules. (1) A ~~central~~ Except as limited by this part and  
6 rules adopted pursuant to this part, a corporate credit  
7 union shall--have has all of the rights and powers of any  
8 other credit union organized under this chapter and the  
9 additional rights and powers specified in this section;  
10 ~~notwithstanding any limitations or restrictions found~~  
11 ~~elsewhere in this chapter part.~~

12 (2) A ~~central~~ corporate credit union may, as permitted  
13 by rules of the department, make loans to other credit  
14 unions,--purchase--shares of other credit unions, and obtain  
15 or acquire the assets and liabilities of any credit union  
16 operating in this state which enters into liquidation and  
17 provide correspondent services and other financial services  
18 to other credit unions.

19 (3) A ~~central~~ corporate credit union may, as permitted  
20 by rules of the department, invest in and grant loans to  
21 associations of credit unions, central funds of credit  
22 unions, or organizations chartered to provide service to  
23 credit unions.

24 (4) A ~~central~~ corporate credit union may, as permitted  
25 by rules of the department, borrow and accept money from any

1 source and issue notes or debentures.

2 (5) A corporate credit union may, as permitted by rules  
3 of the department, make reasonable and prudent investments.

4 (6) The department shall adopt rules governing  
5 corporate credit union loans, borrowing, investments,  
6 strategic planning, funds management, capital goals, and  
7 services. The rules must be in substantial conformance with  
8 Title 12, part 704, Code of Federal Regulations.

9 (7) A corporate credit union may issue membership  
10 capital share deposit accounts as provided in [section 5].

11 {5}{8} A ~~central~~ corporate credit union with corporate  
12 shareholdings equal to or in excess of 95% of its total  
13 assets may, by vote of its board of directors,

14 {a} elect exemption of insurance on share accounts  
15 under the provisions of Title II of the Federal Credit Union  
16 Act;

17 {b} ~~borrow from any source an amount not in excess of~~  
18 ~~three times its total assets after deduction of the notes~~  
19 ~~payable account; however, with prior written approval of the~~  
20 ~~director of the department of commerce, the credit union may~~  
21 ~~exceed such limitation; and~~

22 {c} ~~make loans to any member in an aggregate amount not~~  
23 ~~in excess of 20% of the central credit union's total~~  
24 ~~assets."~~

25 NEW SECTION. Section 5. Membership capital share

1 deposits. (1) A corporate credit union may issue membership  
2 capital share deposit or MCSD accounts to members.

3 (2) (a) For purposes of this section, "membership  
4 capital share deposit" or "MCSD account" means a share,  
5 deposit, or other account that:

6 (i) is established, at a minimum, as a 12-month notice  
7 account;

8 (ii) is limited to members;

9 (iii) is not subject to share insurance coverage by the  
10 national credit union share insurance fund or other deposit  
11 insurers; and

12 (iv) in the event of liquidation of the corporate credit  
13 union, is payable only after satisfaction of all liabilities  
14 of the liquidation estate, including uninsured obligations  
15 to shareholders and the national credit union share  
16 insurance fund.

17 (b) An MCSD account is not repayable until notice is  
18 given by the account holder credit union that the account  
19 holder credit union intends to withdraw MCSD account funds  
20 from the corporate credit union, except in the case of a  
21 credit union that is placed into liquidation, is purchased  
22 and assumed, or is merged.

23 (3) An MCSD account may not be used to pledge  
24 borrowings.

25 (4) Corporate credit unions that issue MCSD accounts

1 shall disclose at least annually to their members the terms  
2 and conditions under which the accounts are issued.

3 NEW SECTION. Section 6. Fixed assets -- department  
4 rules. (1) A corporate credit union may not invest in fixed  
5 assets if the aggregate of those investments would exceed  
6 15% of capital, unless the credit union receives prior  
7 written approval from the department and the national credit  
8 union administration board.

9 (2) The department shall adopt rules for the  
10 administration of subsection (1) and for governing ownership  
11 of fixed assets by a corporate credit union. The rules must  
12 be in substantial conformance with Title 12, part 704, Code  
13 of Federal Regulations.

14 NEW SECTION. Section 7. Corporate reserves --  
15 department rules. (1) A corporate credit union shall  
16 maintain a minimum ratio of risk-based capital reserves to  
17 risk-weighted assets according to rules adopted by the  
18 department in substantial conformance with Title 12, part  
19 704, Code of Federal Regulations.

20 (2) The department shall adopt rules for the  
21 administration of subsection (1).

22 NEW SECTION. Section 8. Annual audit. (1) The  
23 supervisory committee of a corporate credit union shall  
24 require an annual opinion audit to be made by an  
25 independent, licensed certified public accountant and shall

1 submit the audit report to the board of directors. A summary  
2 of the audit report must be submitted to the membership at  
3 the next annual meeting.

4 (2) The auditor's workpapers must be made available for  
5 review by state and federal regulatory examiners during any  
6 examination conducted by the examiners.

7 (3) A copy of the audit report and reportable  
8 conditions letter, otherwise known as the management letter,  
9 must be submitted to the department and the national credit  
10 union administration within 30 days after receipt by the  
11 board of directors.

12 NEW SECTION. Section 9. Contracts and written  
13 agreements. Services, facilities, personnel, or equipment  
14 shared with any party must be supported by a written  
15 contract or agreement that specifies the duties and  
16 responsibilities of each party and that fully supports and  
17 documents the allocation of service fees and expenses.

18 NEW SECTION. Section 10. Codification instruction.  
19 [Sections 5 through 9] are intended to be codified as an  
20 integral part of Title 32, chapter 3, part 8, and the  
21 provisions of Title 32, chapter 3, part 8, apply to  
22 [sections 5 through 9].

23 NEW SECTION. Section 11. Effective date. [This act] is  
24 effective on passage and approval.

-End-



## 1 HOUSE BILL NO. 182

2 INTRODUCED BY BACHINI, CHRISTIAENS, BENEDICT, PECK

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
5 LAWS RELATING TO CENTRAL CREDIT UNIONS; CHANGING THE  
6 TERMINOLOGY FROM "CENTRAL" TO "CORPORATE" CREDIT UNION;  
7 REVISING MEMBERSHIP REQUIREMENTS; REGULATING CONFLICTS OF  
8 INTEREST; SUBJECTING THE RIGHTS AND POWERS OF A CORPORATE  
9 CREDIT UNION TO REGULATION BY THE DEPARTMENT OF COMMERCE;  
10 CREATING CAPITAL SHARE ACCOUNTS FOR CORPORATE CREDIT UNION  
11 MEMBERS; REGULATING INVESTMENT IN FIXED ASSETS; REGULATING  
12 THE RATIO OF RISK-BASED CAPITAL RESERVES TO RISK-WEIGHTED  
13 ASSETS; PROVIDING FOR AN ANNUAL AUDIT; REQUIRING WRITTEN  
14 AGREEMENTS WHEN SHARING SERVICES, FACILITIES, PERSONNEL, OR  
15 EQUIPMENT; AMENDING SECTIONS 32-3-801, 32-3-802, 32-3-803,  
16 AND 32-3-804, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
17 DATE."

18

19

## STATEMENT OF INTENT

20 A statement of intent is required for this bill because  
21 it delegates rulemaking authority to the department of  
22 commerce. A "corporate" credit union is one that serves  
23 other credit unions. Other credit unions become members of  
24 the corporate credit union. The member credit unions may  
25 borrow from the corporate credit union if necessary and may

1 invest excess funds with it. The corporate credit union may  
2 also provide to its members other financial services, such  
3 as correspondent check collection and automated funds  
4 transfer services.

5 The national credit union administration has adopted  
6 extensive new regulations applicable to federally chartered  
7 corporate credit unions, and it has also effectively made  
8 the regulations applicable to state-chartered corporate  
9 credit unions by prohibiting federally insured credit unions  
10 from investing in a corporate credit union that is not in  
11 compliance with the new regulations. All credit unions in  
12 Montana are federally insured. Therefore, in adopting rules  
13 pursuant to this bill, the department shall substantially  
14 conform with Title 12, part 704, Code of Federal  
15 Regulations.

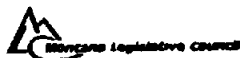
16

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 Section 1. Section 32-3-801, MCA, is amended to read:

19 "32-3-801. Organization. Any central A corporate credit  
20 union may be organized and operated under this chapter and  
21 is subject to all such provisions not inconsistent with this  
22 chapter. Such The credit union shall use the term "central"  
23 "corporate" in its official name."

24 Section 2. Section 32-3-802, MCA, is amended to read:

25 "32-3-802. Membership Purpose -- membership. (1) A

1 corporate credit union must be operated primarily for the  
2 purpose of serving other credit unions.

3 (2) Membership in such-central a corporate credit union  
4 may must include,-but-not-be-limited-to-

5 {1} credit unions organized and operating under this  
6 chapter or under any other credit union law,

7 (3) Membership may also include:

8 {2}(a) officers, directors, committee members, and  
9 employees of such credit unions,-officials-and-employees-of  
10 any-association-of-credit-unions,-and-employees--of--federal  
11 or-state-government-agencies-responsible-for-the-supervision  
12 of-credit-unions-in-this-state; or

13 {3}(b) organizations and associations of those persons  
14 or organizations enumerated in subsections {1}-and (2) and  
15 (3)(a).

16 {4}--employees--of-an-employer-with-insufficient-numbers  
17 to-form-or-conduct-the-affairs-of-a-separate-credit-union;

18 {5}--persons-in-the-field-of-membership-of--liquidated  
19 credit-unions-or-of-credit-unions-which-have-entered-into-or  
20 are-about-to-enter-into-voluntary-or-involuntary-liquidation  
21 proceedings;-or

22 {6}--members--of--the--immediate-families-of-all-members  
23 qualified-above.

24 (4) The membership of a corporate credit union may not  
25 include more than seven natural persons as described in

1 subsection (3)(a)."

2 **Section 3.** Section 32-3-803, MCA, is amended to read:

3 "32-3-803. Voting representative -- conflict of  
4 interest. (1) Each credit union becoming that is a member of  
5 such-central a corporate credit union may designate one  
6 person to be its voting representative in the central  
7 corporate credit union, which The person shall must be  
8 designated by the board of directors of the member credit  
9 union. Such The voting representative shall must be eligible  
10 to hold office in the central corporate credit union as if  
11 such the person were himself a member of the central  
12 corporate credit union.

13 (2) (a) A director, committee member, officer, agent,  
14 or employee may not in any manner participate in the  
15 deliberation or determination of any question affecting that  
16 person's personal pecuniary interest.

17 (b) A director, officer, agent, or employee may not in  
18 any manner participate in the determination of any matter  
19 material in amount, as defined by rule by the department,  
20 affecting the pecuniary interest of any corporation,  
21 partnership, or association, other than the corporate credit  
22 union, in which that person has a direct or indirect  
23 interest, except for matters involving payment of dividends  
24 to the membership.

25 (3) The department shall adopt rules implementing this

1 section in substantial conformance with Title 12, part 704,  
2 Code of Federal Regulations."

3 **Section 4.** Section 32-3-804, MCA, is amended to read:

4 "32-3-804. Additional rights and powers -- department  
5 rules. (1) A--central Except as limited by this part and  
6 rules adopted pursuant to this part, a corporate credit  
7 union shall--have has all of the rights and powers of any  
8 other credit union organized under this chapter and the  
9 additional rights and powers specified in this section,  
10 notwithstanding--any--limitations--or---restrictions---found  
11 elsewhere-in-this-chapter part.

12 (2) A central corporate credit union may, as permitted  
13 by rules of the department, make loans to other credit  
14 unions--purchase--shares-of-other-credit-unions--and-obtain  
15 or-acquire-the-assets-and-liabilities-of--any--credit--union  
16 operating--in--this--state-which-enters-into-liquidation and  
17 provide correspondent services and other financial services  
18 to other credit unions.

19 (3) A central corporate credit union may, as permitted  
20 by rules of the department, invest in and grant loans to  
21 associations of credit unions, central funds of credit  
22 unions, or organizations chartered to provide service to  
23 credit unions.

24 (4) A central corporate credit union may, as permitted  
25 by rules of the department, borrow and accept money from any

1 source and issue notes or debentures.

2 (5) A corporate credit union may, as permitted by rules  
3 of the department, make reasonable and prudent investments.

4 (6) The department shall adopt rules governing  
5 corporate credit union loans, borrowing, investments,  
6 strategic planning, funds management, capital goals, and  
7 services. The rules must be in substantial conformance with  
8 Title 12, part 704, Code of Federal Regulations.

9 (7) A corporate credit union may issue membership  
10 capital share deposit accounts as provided in [section 5].

11 ~~(5)~~(8) A central corporate credit union with corporate  
12 shareholdings equal to or in excess of 95% of its total  
13 assets may, by vote of its board of directors,

14 ~~(a)~~ elect exemption of insurance on share accounts  
15 under the provisions of Title II of the Federal Credit Union  
16 Act;

17 ~~(b)~~ borrow--from--any-source-an-amount-not-in-excess-of  
18 three-times-its-total-assets-after-deduction--of--the--notes  
19 payable-account--however--with-prior-written-approval-of-the  
20 director-of-the-department-of-commerce--the-credit-union-may  
21 exceed-such-limitation--and

22 ~~(c)~~ make-loans-to-any-member-in-an-aggregate-amount-not  
23 in--excess--of--20%--of--the--central--credit--union's-total  
24 assets."

25 **NEW SECTION.** Section 5. Membership capital share

1 deposits. (1) A corporate credit union may issue membership  
2 capital share deposit or MCSD accounts to members.

3 (2) (a) For purposes of this section, "membership  
4 capital share deposit" or "MCSD account" means a share,  
5 deposit, or other account that:

6 (i) is established, at a minimum, as a 12-month notice  
7 account;

8 (ii) is limited to members;

9 (iii) is not subject to share insurance coverage by the  
10 national credit union share insurance fund or other deposit  
11 insurers; and

12 (iv) in the event of liquidation of the corporate credit  
13 union, is payable only after satisfaction of all liabilities  
14 of the liquidation estate, including uninsured obligations  
15 to shareholders and the national credit union share  
16 insurance fund.

17 (b) An MCSD account is not repayable until notice is  
18 given by the account holder credit union that the account  
19 holder credit union intends to withdraw MCSD account funds  
20 from the corporate credit union, except in the case of a  
21 credit union that is placed into liquidation, is purchased  
22 and assumed, or is merged.

23 (3) An MCSD account may not be used to pledge  
24 borrowings.

25 (4) Corporate credit unions that issue MCSD accounts

1 shall disclose at least annually to their members the terms  
2 and conditions under which the accounts are issued.

3 NEW SECTION. Section 6. Fixed assets -- department  
4 rules. (1) A corporate credit union may not invest in fixed  
5 assets if the aggregate of those investments would exceed  
6 15t of capital, unless the credit union receives prior  
7 written approval from the department and the national credit  
8 union administration board.

9 (2) The department shall adopt rules for the  
10 administration of subsection (1) and for governing ownership  
11 of fixed assets by a corporate credit union. The rules must  
12 be in substantial conformance with Title 12, part 704, Code  
13 of Federal Regulations.

14 NEW SECTION. Section 7. Corporate reserves --  
15 department rules. (1) A corporate credit union shall  
16 maintain a minimum ratio of risk-based capital reserves to  
17 risk-weighted assets according to rules adopted by the  
18 department in substantial conformance with Title 12, part  
19 704, Code of Federal Regulations.

20 (2) The department shall adopt rules for the  
21 administration of subsection (1).

22 NEW SECTION. Section 8. Annual audit. (1) The  
23 supervisory committee of a corporate credit union shall  
24 require an annual opinion audit to be made by an  
25 independent, licensed certified public accountant and shall

1 submit the audit report to the board of directors. A summary  
2 of the audit report must be submitted to the membership at  
3 the next annual meeting.

4 (2) The auditor's workpapers must be made available for  
5 review by state and federal regulatory examiners during any  
6 examination conducted by the examiners.

7 (3) A copy of the audit report and reportable  
8 conditions letter, otherwise known as the management letter,  
9 must be submitted to the department and the national credit  
10 union administration within 30 days after receipt by the  
11 board of directors.

12 NEW SECTION. Section 9. Contracts and written  
13 agreements. Services, facilities, personnel, or equipment  
14 shared with any party must be supported by a written  
15 contract or agreement that specifies the duties and  
16 responsibilities of each party and that fully supports and  
17 documents the allocation of service fees and expenses.

18 NEW SECTION. Section 10. Codification instruction.  
19 [Sections 5 through 9] are intended to be codified as an  
20 integral part of Title 32, chapter 3, part 8, and the  
21 provisions of Title 32, chapter 3, part 8, apply to  
22 [sections 5 through 9].

23 NEW SECTION. Section 11. Effective date. [This act] is  
24 effective on passage and approval.

-End-