

House BILL NO. 238

INTRODUCED BY

Bob Sprague, *Wm Ryan*, *David Pearce*, *Beane*

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO CREDIT UNIONS, CONFORMING DIVIDEND PAYMENT PROVISIONS TO FEDERAL LAW; INCREASING THE TRIGGER AMOUNT FOR BOARD APPROVAL OF LOANS TO OFFICIALS; REVISING CAPITAL ACCOUNTS AND CAPITAL RESERVE REQUIREMENTS FOR CORPORATE CREDIT UNIONS TO CONFORM WITH FEDERAL REGULATIONS; ALLOWING CREDIT UNIONS TO HOLD FUNERAL PLAN TRUSTS; AND AMENDING SECTIONS 32-3-502, 32-3-608, 32-3-803, 32-3-804, 32-3-805, 32-3-807, 72-37-102, AND 72-37-103, MCA."

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

Section 1. Section 32-3-502, MCA, is amended to read:

"32-3-502. Dividends. (1) At ~~such the~~ intervals and for ~~such the~~ periods ~~as that~~ the board of directors ~~may authorize~~ authorizes and after ~~provision~~ providing for the required reserves, the board of directors may declare dividends to be paid from the undivided earnings at ~~such the~~ rates and upon ~~such the~~ classes of shares ~~as are determined by that~~ the board determines. ~~Such~~ The dividends ~~shall~~ must be paid on all ~~paid up~~ shares outstanding at the close of the period for which the dividend is declared.

~~(2) Shares which become fully paid up during such dividend period and are outstanding at the close of the period shall be entitled to a proportionate share of such dividend.~~

~~(3) Dividend credit for a month may be accrued on shares which are or become fully paid up during the first 15 days of that month."~~

Section 2. Section 32-3-608, MCA, is amended to read:

"32-3-608. Loans to officials. (1) A credit union may make loans to its directors, employees, loan officers, and credit manager, and to members of its supervisory and credit committees, ~~provided that if:~~

(a) the loan complies with ~~all lawful~~ the requirements ~~under of~~ this chapter with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers; and

(b) ~~any such the~~ loan or aggregate of loans to any one director or committee member ~~which~~

1 ~~exceeds \$2,500~~ that exceeds \$20,000 plus pledged shares ~~must be reported to~~ is approved by the board
 2 of directors. Loans to directors and committee members may not exceed an aggregate of 20% of
 3 unimpaired capital of the credit union.

4 (2) A credit union may permit directors, employees, loan officers, the credit manager, and members
 5 of its supervisory and credit committees to act as comakers, guarantors, or endorsers of loans to other
 6 members, except when ~~any such~~ the loan standing alone or when added to any outstanding loan or loans
 7 to the comaker, guarantor, or endorser exceeds ~~\$2,500~~ \$20,000, approval of the board of directors is
 8 required."

9
 10 **Section 3.** Section 32-3-803, MCA, is amended to read:

11 **"32-3-803. Voting representative -- conflict of interest.** (1) Each credit union that is a member of
 12 a corporate credit union may designate one person to be its voting representative in the corporate credit
 13 union. The person must be designated by the board of directors of the member credit union. The voting
 14 representative ~~must be~~ is eligible to hold office in the corporate credit union as if the person were a member
 15 of the corporate credit union.

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

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

23 (3) The department shall adopt rules implementing this section in substantial conformance with
 24 Title 12, part 704, Code of Federal Regulations."

25
 26 **Section 4.** Section 32-3-804, MCA, is amended to read:

27 **"32-3-804. Additional rights and powers -- department rules.** (1) Except as limited by this part and
 28 rules adopted pursuant to this part, a corporate credit union has all of the rights and powers of any other
 29 credit union organized under this chapter and the additional rights and powers specified in this part.

30 (2) A corporate credit union may, as permitted by rules of the department, make loans to other

1 credit unions and provide correspondent services and other financial services to other credit unions.

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

5 (4) A corporate credit union may, as permitted by rules of the department, borrow and accept
6 money from any source and issue notes or debentures.

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

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

12 (7) A corporate credit union may issue membership capital ~~share deposit~~ accounts as provided in
13 32-3-805.

14 (8) A corporate credit union with corporate shareholdings equal to or in excess of 95% of its total
15 assets may, by vote of its board of directors, elect exemption of insurance on share accounts under the
16 provisions of Title II of the Federal Credit Union Act."

17
18 **Section 5.** Section 32-3-805, MCA, is amended to read:

19 **"32-3-805. Membership capital ~~share deposits~~ accounts.** (1) A corporate credit union may issue
20 membership capital ~~share deposit~~ or ~~MCSD~~ accounts to members.

21 (2) (a) For purposes of this section, "membership capital ~~share deposit~~" or "~~MCSD~~ account" means
22 a share, deposit, or other account that:

23 (i) is established, at a minimum, as a ~~12-month~~ 3-year notice account;

24 (ii) is limited to members;

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

27 (iv) in the event of liquidation of the corporate credit union, is payable only after satisfaction of all
28 liabilities of the liquidation estate, including uninsured obligations to shareholders and the national credit
29 union share insurance fund.

30 (b) ~~An MCSD~~ A membership capital account is not repayable until notice is given by the account

1 holder credit union that the account holder credit union intends to withdraw MCSA membership capital
 2 account funds from the corporate credit union, except in the case of a credit union that is placed into
 3 liquidation, is purchased and assumed, or is merged.

4 (3) ~~An MCSA~~ A membership capital account may not be used to pledge borrowings.

5 (4) Corporate credit unions that issue MCSA membership capital accounts shall disclose at least
 6 annually to their members the terms and conditions under which the accounts are issued."

7
 8 **Section 6.** Section 32-3-807, MCA, is amended to read:

9 "**32-3-807. Corporate reserves -- department rules.** (1) A corporate credit union shall maintain a
 10 minimum ~~ratio of risk based~~ capital reserves to ~~risk weighted~~ assets ratio according to rules adopted by the
 11 department in substantial conformance with Title 12, part 704, Code of Federal Regulations.

12 (2) The department shall adopt rules for the administration of subsection (1)."

13
 14 **Section 7.** Section 72-37-102, MCA, is amended to read:

15 "**72-37-102. Deposit of money -- trust fund.** (1) Within 30 days after receipt, ~~the a~~ party to ~~the~~
 16 a contract for a prearranged funeral plan or related services holding ~~said~~ money in trust according to
 17 72-37-101 shall deposit ~~said~~ the money in a banking institution or invest ~~said~~ the money in the stock of
 18 a savings or building and loan association or in the shares of a credit union organized under the laws of the
 19 state of Montana or of the United States ~~of America~~ and having its principal place of business in ~~the~~ this
 20 state, ~~the~~ The deposits of the money which in a banking institution or the stock liability investment in of
 21 ~~which~~ a savings or building and loan association or credit union ~~are~~ must be insured by an instrumentality
 22 of the federal government.

23 (2) ~~Said~~ The deposits or investments ~~shall be and~~ constitute a trust fund for the benefit of the
 24 person who has contracted for ~~such property and services upon his death~~ a prearranged funeral plan or
 25 related services. ~~Such~~ The money ~~shall~~ must be deposited in a separate account in the name of the
 26 depositor as trustee for the person who has contracted for ~~such property and services upon his death~~ a
 27 prearranged funeral plan or related services."

28
 29 **Section 8.** Section 72-37-103, MCA, is amended to read:

30 "**72-37-103. Report of institution holding deposited money.** A banking institution, ~~or~~ savings or

1 building and loan association, or credit union receiving money in trust under 72-37-102 shall report to the
2 department of commerce before February 1 of each year all amounts received and held in trust. This report
3 ~~shall~~ must show the name and address of each trustee and ~~cestui que~~ beneficiary of a trust, the principal
4 amount remaining, and the interest or dividends paid on each ~~such~~ account."

5 -END-

APPROVED BY COM ON
BUSINESS & LABOR

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House BILL NO. 238

INTRODUCED BY ~~Bob Sprague, Wayne Dwyer~~
Harper, Pease *Beary*

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO CREDIT UNIONS; CONFORMING DIVIDEND PAYMENT PROVISIONS TO FEDERAL LAW; INCREASING THE TRIGGER AMOUNT FOR BOARD APPROVAL OF LOANS TO OFFICIALS; REVISING CAPITAL ACCOUNTS AND CAPITAL RESERVE REQUIREMENTS FOR CORPORATE CREDIT UNIONS TO CONFORM WITH FEDERAL REGULATIONS; ALLOWING CREDIT UNIONS TO HOLD FUNERAL PLAN TRUSTS; AND AMENDING SECTIONS 32-3-502, 32-3-608, 32-3-803, 32-3-804, 32-3-805, 32-3-807, 72-37-102, AND 72-37-103, MCA."

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INTRODUCED BY

Paul Sprague, *Wm. Gary* *David*
Hayes, *Pease* *Beane* *Thief*

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INTRODUCED BY PECK, SPRAGUE, RYAN, GRADY, HARPER, PEASE, HEAVY RUNNER

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~~(2) Shares which become fully paid up during such dividend period and are outstanding at the close of the period shall be entitled to a proportionate share of such dividend.~~

~~(3) Dividend credit for a month may be accrued on shares which are or become fully paid up during the first 15 days of that month."~~

Section 2. Section 32-3-608, MCA, is amended to read:

"32-3-608. **Loans to officials.** (1) A credit union may make loans to its directors, employees, loan officers, and credit manager, and to members of its supervisory and credit committees, ~~provided that if:~~

(a) the loan complies with ~~all lawful~~ the requirements ~~under~~ of this chapter with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers; and

(b) ~~any such~~ the loan or aggregate of loans to any one director or committee member ~~which~~

1 ~~exceeds \$2,500 that exceeds \$20,000 plus pledged shares must be reported to is approved by~~ MUST BE
 2 REPORTED TO the board of directors. Loans to directors and committee members may not exceed an
 3 aggregate of 20% of unimpaired capital of the credit union.

4 (2) A credit union may permit directors, employees, loan officers, the credit manager, and members
 5 of its supervisory and credit committees to act as comakers, guarantors, or endorsers of loans to other
 6 members, except when ~~any such~~ the loan standing alone or when added to any outstanding loan or loans
 7 to the comaker, guarantor, or endorser exceeds ~~\$2,500 \$20,000, approval of~~ A REPORT TO the board of
 8 directors is required."
 9

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

11 **"32-3-803. Voting representative -- conflict of interest.** (1) Each credit union that is a member of
 12 a corporate credit union may designate one person to be its voting representative in the corporate credit
 13 union. The person must be designated by the board of directors of the member credit union. The voting
 14 representative ~~must be~~ is eligible to hold office in the corporate credit union as if the person were a member
 15 of the corporate credit union.

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

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

23 (3) The department shall adopt rules implementing this section in substantial conformance with
 24 Title 12, part 704, Code of Federal Regulations."
 25

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

27 **"32-3-804. Additional rights and powers -- department rules.** (1) Except as limited by this part and
 28 rules adopted pursuant to this part, a corporate credit union has all of the rights and powers of any other
 29 credit union organized under this chapter and the additional rights and powers specified in this part.

30 (2) A corporate credit union may, as permitted by rules of the department, make loans to other

1 credit unions and provide correspondent services and other financial services to other credit unions.

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

5 (4) A corporate credit union may, as permitted by rules of the department, borrow and accept
6 money from any source and issue notes or debentures.

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

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

12 (7) A corporate credit union may issue membership capital ~~share deposit~~ accounts as provided in
13 32-3-805.

14 (8) A CORPORATE CREDIT UNION MAY ISSUE PAID-IN CAPITAL AND NONMEMBER PAID-IN
15 CAPITAL AS PROVIDED IN [SECTION 9].

16 ~~(8)~~(9) A corporate credit union with corporate shareholdings equal to or in excess of 95% of its
17 total assets may, by vote of its board of directors, elect exemption of insurance on share accounts under
18 the provisions of Title II of the Federal Credit Union Act."

19

20 **Section 5.** Section 32-3-805, MCA, is amended to read:

21 **"32-3-805. Membership capital ~~share deposits~~ accounts.** (1) A corporate credit union may issue
22 membership capital ~~share deposit or MCSD~~ accounts to members THAT ARE AVAILABLE TO COVER
23 LOSSES THAT EXCEED RESERVES AND UNDIVIDED EARNINGS AND PAID-IN CAPITAL.

24 (2) (a) For purposes of this section, "membership capital ~~share deposit~~" or "MCSD account" means
25 a share, deposit, TERM CERTIFICATE, ADJUSTED BALANCE, or other account that:

26 (i) is established, at a minimum, as a ~~12-month~~ 3-year notice account;

27 (ii) is limited to members;

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

30 (iv) in the event of liquidation of the corporate credit union, is payable only after satisfaction of all

1 liabilities of the liquidation estate, including uninsured obligations to shareholders and the national credit
2 union share insurance fund.

3 ~~(b) An MCSD A membership capital account is not repayable until notice is given by the account~~
4 ~~holder credit union that the account holder credit union intends to withdraw MCSD membership capital~~
5 ~~account funds from the corporate credit union~~ UPON WRITTEN NOTICE OF INTENT TO WITHDRAW
6 MEMBERSHIP CAPITAL, THE BALANCE OF THE ACCOUNT WILL BE FROZEN WITH NO ANNUAL
7 ADJUSTMENT UNTIL THE CONCLUSION OF THE NOTICE PERIOD, except in the case of a credit union that
8 is placed into liquidation, is purchased and assumed, or is merged.

9 (C) UPON NOTIFICATION OF INTENT TO WITHDRAW, THE AMOUNT OF THE ACCOUNT ON
10 NOTICE THAT MAY BE CONSIDERED MEMBERSHIP CAPITAL IS REDUCED BY A CONSTANT MONTHLY
11 AMORTIZATION THAT ENSURES THAT THE RECOGNITION OF MEMBERSHIP CAPITAL IS FULLY
12 AMORTIZED AT THE END OF THE NOTICE PERIOD.

13 (D) THE FULL BALANCE OF A MEMBERSHIP CAPITAL ACCOUNT THAT HAS BEEN PLACED ON
14 NOTICE, NOT JUST THE REMAINING NONAMORTIZED PORTION, IS AVAILABLE TO ABSORB LOSSES IN
15 EXCESS OF RESERVES AND UNDIVIDED EARNINGS AND OF PAID-IN CAPITAL UNTIL THE FUNDS ARE
16 RELEASED BY THE CORPORATE CREDIT UNION AT THE CONCLUSION OF THE NOTICE PERIOD.

17 (3) ~~An MCSD A membership capital~~ account may not be used to pledge borrowings.

18 (4) Corporate credit unions that issue ~~MCSD membership capital~~ accounts shall disclose THE
19 TERMS AND CONDITIONS OF THE ACCOUNT WHEN IT IS OPENED AND at least annually ~~to their members~~
20 ~~the terms and conditions under which the accounts are issued~~ THEREAFTER."

21

22 **Section 6.** Section 32-3-807, MCA, is amended to read:

23 **"32-3-807. Corporate reserves -- department rules.** (1) A corporate credit union shall maintain a
24 minimum ~~ratio of risk-based capital reserves to risk-weighted assets~~ ratio according to rules adopted by the
25 department in substantial conformance with Title 12, part 704, Code of Federal Regulations.

26 (2) The department shall adopt rules for the administration of subsection (1)."

27

28 **Section 7.** Section 72-37-102, MCA, is amended to read:

29 **"72-37-102. Deposit of money -- trust fund.** (1) Within 30 days after receipt, ~~the a~~ a party to ~~the~~
30 a contract for a prearranged funeral plan or related services holding ~~said~~ money in trust according to

1 72-37-101 shall deposit ~~said~~ the money in a banking institution or invest ~~said~~ the money in the stock of
 2 a savings or building and loan association or in the shares of a credit union organized under the laws of the
 3 state of Montana or of the United States ~~of America~~ and having its principal place of business in ~~the~~ this
 4 state, ~~the~~ The deposits of the money ~~which~~ in a banking institution or the ~~stock liability~~ investment in ~~of~~
 5 ~~which~~ a savings or building and loan association or credit union ~~are~~ must be insured by an instrumentality
 6 of the federal government.

7 (2) ~~Said~~ The deposits or investments ~~shall be and~~ constitute a trust fund for the benefit of the
 8 person who has contracted for ~~such property and services upon his death~~ a prearranged funeral plan or
 9 related services. ~~Such~~ The money ~~shall~~ must be deposited in a separate account in the name of the
 10 depositor as trustee for the person who has contracted for ~~such property and services upon his death~~ a
 11 prearranged funeral plan or related services."

12

13 **Section 8.** Section 72-37-103, MCA, is amended to read:

14 **"72-37-103. Report of institution holding deposited money.** A banking institution, ~~or~~ savings or
 15 building and loan association, or credit union receiving money in trust under 72-37-102 shall report to the
 16 department of commerce before February 1 of each year all amounts received and held in trust. This report
 17 ~~shall~~ must show the name and address of each trustee and ~~cestui que~~ beneficiary of a trust, the principal
 18 amount remaining, and the interest or dividends paid on each ~~such~~ account."

19

20 **NEW SECTION. SECTION 9. PAID-IN CAPITAL DEFINED -- AUTHORIZED.** (1) **"PAID-IN CAPITAL"**
 21 **MEANS ACCOUNTS OR OTHER INTERESTS OF A CORPORATE CREDIT UNION THAT:**

22 **(A) MAY NOT EXCEED RESERVES AND UNDIVIDED EARNINGS;**

23 **(B) MAY INCLUDE BOTH MEMBER PAID-IN CAPITAL AND NONMEMBER PAID-IN CAPITAL;**

24 **(C) ARE AVAILABLE TO COVER LOSSES THAT EXCEED RESERVES AND UNDIVIDED EARNINGS;**

25 **(D) ARE NOT INSURED BY THE NATIONAL CREDIT UNION SHARE INSURANCE FUND (NCUSIF)**

26 **OR OTHER SHARE OR DEPOSIT INSURERS;**

27 **(E) ARE CALLABLE ONLY AT THE OPTION OF THE CORPORATE CREDIT UNION AND ONLY IF THE**

28 **CORPORATE CREDIT UNION MEETS ITS MINIMUM LEVEL OF REQUIRED CAPITAL AFTER THE FUNDS ARE**

29 **CALLED; AND**

30 **(F) IN THE EVENT OF LIQUIDATION OF THE CORPORATE CREDIT UNION, ARE PAYABLE ONLY**

1 AFTER SATISFACTION OF ALL LIABILITIES OF THE LIQUIDATION ESTATE, INCLUDING UNINSURED
2 SHARE OBLIGATIONS TO THE SHAREHOLDERS, THE NCUSIF, AND MEMBERSHIP CAPITAL HOLDERS.

3 (2) (A) A CORPORATE CREDIT UNION MAY ISSUE PAID-IN CAPITAL TO ITS MEMBERS.

4 (B) MEMBER PAID-IN CAPITAL MUST HAVE AN INITIAL MATURITY OF 20 YEARS.

5 (C) A CORPORATE CREDIT UNION MAY NOT CONDITION MEMBERSHIP, SERVICES OR PRICES
6 FOR SERVICES ON A MEMBER'S OWNERSHIP OF PAID-IN CAPITAL.

7 (D) WHEN A PAID-IN CAPITAL INSTRUMENT HAS A REMAINING MATURITY OF 5 YEARS, THE
8 AMOUNT OF THE INSTRUMENT THAT MAY BE CONSIDERED PAID-IN CAPITAL FOR THE PURPOSES OF
9 THIS PART IS REDUCED BY A CONSTANT MONTHLY AMORTIZATION THAT ENSURES THE
10 RECOGNITION OF PAID-IN CAPITAL IS FULLY AMORTIZED WHEN THE INSTRUMENT HAS A REMAINING
11 MATURITY OF 3 YEARS.

12 (E) THE TERMS AND CONDITIONS OF ANY MEMBER PAID-IN CAPITAL INSTRUMENT MUST BE
13 DISCLOSED TO THE RECORDED OWNER OF THE INSTRUMENT AT THE TIME THE INSTRUMENT IS
14 CREATED AND AT LEAST ANNUALLY THEREAFTER.

15 (3) A CORPORATE CREDIT UNION MAY ISSUE NONMEMBER PAID-IN CAPITAL ACCOUNTS.
16 HOWEVER, THE CORPORATE CREDIT UNION MAY ONLY ISSUE THE ACCOUNTS AFTER APPROVAL BY
17 THE DEPARTMENT AND THE NATIONAL CREDIT UNION ADMINISTRATION (NCUA), AND FOLLOWING
18 AN EVALUATION BY THE NCUA OF THE STRATEGIC PURPOSE AND FINANCIAL IMPACT OF ISSUING THE
19 ACCOUNTS, THE CORPORATE CREDIT UNION'S FINANCIAL CONDITION AND MANAGEMENT
20 CAPABILITIES, THE MATURITY AND CAPITAL AMORTIZATION SCHEDULES OF THE PAID-IN CAPITAL
21 INSTRUMENT; AND THE PARTICIPATION, VOTING, ACCELERATION, REDEMPTION, OR OTHER RIGHTS
22 OF THE HOLDER.

23

24 NEW SECTION. SECTION 10. CODIFICATION INSTRUCTION. [SECTION 9] IS INTENDED TO BE
25 CODIFIED AS AN INTEGRAL PART OF TITLE 32, CHAPTER 3, PART 8, AND THE PROVISIONS OF TITLE
26 32, CHAPTER 3, PART 8, APPLY TO [SECTION 9].

27

-END-

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1 ~~exceeds \$2,500~~ that exceeds \$20,000 plus pledged shares ~~must be reported to is approved by~~ MUST BE
 2 REPORTED TO the board of directors. Loans to directors and committee members may not exceed an
 3 aggregate of 20% of unimpaired capital of the credit union.

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 15 of the corporate credit union.

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

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

23 (3) The department shall adopt rules implementing this section in substantial conformance with
 24 Title 12, part 704, Code of Federal Regulations."

25

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

27 **"32-3-804. Additional rights and powers -- department rules.** (1) Except as limited by this part and
 28 rules adopted pursuant to this part, a corporate credit union has all of the rights and powers of any other
 29 credit union organized under this chapter and the additional rights and powers specified in this part.

30 (2) A corporate credit union may, as permitted by rules of the department, make loans to other

1 credit unions and provide correspondent services and other financial services to other credit unions.

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

5 (4) A corporate credit union may, as permitted by rules of the department, borrow and accept
6 money from any source and issue notes or debentures.

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

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

12 (7) A corporate credit union may issue membership capital ~~share deposit~~ accounts as provided in
13 32-3-805.

14 (8) A CORPORATE CREDIT UNION MAY ISSUE PAID-IN CAPITAL AND NONMEMBER PAID-IN
15 CAPITAL AS PROVIDED IN [SECTION 9].

16 ~~(8)~~(9) A corporate credit union with corporate shareholdings equal to or in excess of 95% of its
17 total assets may, by vote of its board of directors, elect exemption of insurance on share accounts under
18 the provisions of Title II of the Federal Credit Union Act."

19

20 **Section 5.** Section 32-3-805, MCA, is amended to read:

21 "**32-3-805. Membership capital ~~share deposits~~ accounts.** (1) A corporate credit union may issue
22 membership capital ~~share deposit or MCSD~~ accounts to members THAT ARE AVAILABLE TO COVER
23 LOSSES THAT EXCEED RESERVES AND UNDIVIDED EARNINGS AND PAID-IN CAPITAL.

24 (2) (a) For purposes of this section, "membership capital ~~share deposit~~" or "MCSD account" means
25 a share, deposit, TERM CERTIFICATE, ADJUSTED BALANCE, or other account that:

26 (i) is established, at a minimum, as a ~~12-month~~ 3-year notice account;

27 (ii) is limited to members;

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

30 (iv) in the event of liquidation of the corporate credit union, is payable only after satisfaction of all

1 liabilities of the liquidation estate, including uninsured obligations to shareholders and the national credit
2 union share insurance fund.

3 (b) ~~An MCSD A membership capital account is not repayable until notice is given by the account~~
4 ~~holder credit union that the account holder credit union intends to withdraw MCSD membership capital~~
5 ~~account funds from the corporate credit union~~ UPON WRITTEN NOTICE OF INTENT TO WITHDRAW
6 MEMBERSHIP CAPITAL, THE BALANCE OF THE ACCOUNT WILL BE FROZEN WITH NO ANNUAL
7 ADJUSTMENT UNTIL THE CONCLUSION OF THE NOTICE PERIOD, except in the case of a credit union that
8 is placed into liquidation, is purchased and assumed, or is merged.

9 (C) UPON NOTIFICATION OF INTENT TO WITHDRAW, THE AMOUNT OF THE ACCOUNT ON
10 NOTICE THAT MAY BE CONSIDERED MEMBERSHIP CAPITAL IS REDUCED BY A CONSTANT MONTHLY
11 AMORTIZATION THAT ENSURES THAT THE RECOGNITION OF MEMBERSHIP CAPITAL IS FULLY
12 AMORTIZED AT THE END OF THE NOTICE PERIOD.

13 (D) THE FULL BALANCE OF A MEMBERSHIP CAPITAL ACCOUNT THAT HAS BEEN PLACED ON
14 NOTICE, NOT JUST THE REMAINING NONAMORTIZED PORTION, IS AVAILABLE TO ABSORB LOSSES IN
15 EXCESS OF RESERVES AND UNDIVIDED EARNINGS AND OF PAID-IN CAPITAL UNTIL THE FUNDS ARE
16 RELEASED BY THE CORPORATE CREDIT UNION AT THE CONCLUSION OF THE NOTICE PERIOD.

17 (3) ~~An MCSD A membership capital~~ account may not be used to pledge borrowings.

18 (4) Corporate credit unions that issue ~~MCSD membership capital~~ accounts shall disclose THE
19 TERMS AND CONDITIONS OF THE ACCOUNT WHEN IT IS OPENED AND at least annually ~~to their members~~
20 ~~the terms and conditions under which the accounts are issued~~ THEREAFTER."

21

22 **Section 6.** Section 32-3-807, MCA, is amended to read:

23 **"32-3-807. Corporate reserves -- department rules.** (1) A corporate credit union shall maintain a
24 minimum ~~ratio of risk-based capital reserves to risk-weighted assets~~ ratio according to rules adopted by the
25 department in substantial conformance with Title 12, part 704, Code of Federal Regulations.

26 (2) The department shall adopt rules for the administration of subsection (1)."

27

28 **Section 7.** Section 72-37-102, MCA, is amended to read:

29 **"72-37-102. Deposit of money -- trust fund.** (1) Within 30 days after receipt, ~~the a party to the~~
30 a contract for a prearranged funeral plan or related services holding ~~said~~ money in trust according to

1 72-37-101 shall deposit ~~said the~~ the money in a banking institution or invest ~~said the~~ the money in the stock of
 2 a savings or building and loan association or in the shares of a credit union organized under the laws of the
 3 state of Montana or of the United States ~~of America~~ and having its principal place of business in ~~the~~ this
 4 state, ~~the~~ The deposits of the money ~~which in a~~ banking institution or the ~~stock liability investment in of~~
 5 ~~which a~~ savings or building and loan association or credit union ~~are~~ must be insured by an instrumentality
 6 of the federal government.

7 (2) ~~Said~~ The deposits or investments ~~shall be and~~ constitute a trust fund for the benefit of the
 8 person who has contracted for ~~such property and services upon his death~~ a prearranged funeral plan or
 9 related services. ~~Such~~ The money ~~shall~~ must be deposited in a separate account in the name of the
 10 depositor as trustee for the person who has contracted for ~~such property and services upon his death~~ a
 11 prearranged funeral plan or related services."

12
 13 **Section 8.** Section 72-37-103, MCA, is amended to read:

14 "**72-37-103. Report of institution holding deposited money.** A banking institution, ~~or~~ savings or
 15 building and loan association, or credit union receiving money in trust under 72-37-102 shall report to the
 16 department of commerce before February 1 of each year all amounts received and held in trust. This report
 17 ~~shall~~ must show the name and address of each trustee and ~~estate~~ beneficiary of a trust, the principal
 18 amount remaining, and the interest or dividends paid on each ~~such~~ account."

19
 20 **NEW SECTION. SECTION 9. PAID-IN CAPITAL DEFINED -- AUTHORIZED.** (1) "**PAID-IN CAPITAL**"
 21 **MEANS ACCOUNTS OR OTHER INTERESTS OF A CORPORATE CREDIT UNION THAT:**

22 **(A) MAY NOT EXCEED RESERVES AND UNDIVIDED EARNINGS;**

23 **(B) MAY INCLUDE BOTH MEMBER PAID-IN CAPITAL AND NONMEMBER PAID-IN CAPITAL;**

24 **(C) ARE AVAILABLE TO COVER LOSSES THAT EXCEED RESERVES AND UNDIVIDED EARNINGS;**

25 **(D) ARE NOT INSURED BY THE NATIONAL CREDIT UNION SHARE INSURANCE FUND (NCUSIF)**

26 **OR OTHER SHARE OR DEPOSIT INSURERS;**

27 **(E) ARE CALLABLE ONLY AT THE OPTION OF THE CORPORATE CREDIT UNION AND ONLY IF THE**
 28 **CORPORATE CREDIT UNION MEETS ITS MINIMUM LEVEL OF REQUIRED CAPITAL AFTER THE FUNDS ARE**
 29 **CALLED; AND**

30 **(F) IN THE EVENT OF LIQUIDATION OF THE CORPORATE CREDIT UNION, ARE PAYABLE ONLY**

1 AFTER SATISFACTION OF ALL LIABILITIES OF THE LIQUIDATION ESTATE, INCLUDING UNINSURED
2 SHARE OBLIGATIONS TO THE SHAREHOLDERS, THE NCUSIF, AND MEMBERSHIP CAPITAL HOLDERS.

3 (2) (A) A CORPORATE CREDIT UNION MAY ISSUE PAID-IN CAPITAL TO ITS MEMBERS.

4 (B) MEMBER PAID-IN CAPITAL MUST HAVE AN INITIAL MATURITY OF 20 YEARS.

5 (C) A CORPORATE CREDIT UNION MAY NOT CONDITION MEMBERSHIP, SERVICES OR PRICES
6 FOR SERVICES ON A MEMBER'S OWNERSHIP OF PAID-IN CAPITAL.

7 (D) WHEN A PAID-IN CAPITAL INSTRUMENT HAS A REMAINING MATURITY OF 5 YEARS, THE
8 AMOUNT OF THE INSTRUMENT THAT MAY BE CONSIDERED PAID-IN CAPITAL FOR THE PURPOSES OF
9 THIS PART IS REDUCED BY A CONSTANT MONTHLY AMORTIZATION THAT ENSURES THE
10 RECOGNITION OF PAID-IN CAPITAL IS FULLY AMORTIZED WHEN THE INSTRUMENT HAS A REMAINING
11 MATURITY OF 3 YEARS.

12 (E) THE TERMS AND CONDITIONS OF ANY MEMBER PAID-IN CAPITAL INSTRUMENT MUST BE
13 DISCLOSED TO THE RECORDED OWNER OF THE INSTRUMENT AT THE TIME THE INSTRUMENT IS
14 CREATED AND AT LEAST ANNUALLY THEREAFTER.

15 (3) A CORPORATE CREDIT UNION MAY ISSUE NONMEMBER PAID-IN CAPITAL ACCOUNTS.
16 HOWEVER, THE CORPORATE CREDIT UNION MAY ONLY ISSUE THE ACCOUNTS AFTER APPROVAL BY
17 THE DEPARTMENT AND THE NATIONAL CREDIT UNION ADMINISTRATION (NCUA), AND FOLLOWING
18 AN EVALUATION BY THE NCUA OF THE STRATEGIC PURPOSE AND FINANCIAL IMPACT OF ISSUING THE
19 ACCOUNTS, THE CORPORATE CREDIT UNION'S FINANCIAL CONDITION AND MANAGEMENT
20 CAPABILITIES, THE MATURITY AND CAPITAL AMORTIZATION SCHEDULES OF THE PAID-IN CAPITAL
21 INSTRUMENT; AND THE PARTICIPATION, VOTING, ACCELERATION, REDEMPTION, OR OTHER RIGHTS
22 OF THE HOLDER.

23
24 NEW SECTION. SECTION 10. CODIFICATION INSTRUCTION. [SECTION 9] IS INTENDED TO BE
25 CODIFIED AS AN INTEGRAL PART OF TITLE 32, CHAPTER 3, PART 8, AND THE PROVISIONS OF TITLE
26 32, CHAPTER 3, PART 8, APPLY TO [SECTION 9].

27 -END-