

HOUSE BILL 541

Introduced by Kadas, et al.

2/01	Introduced
2/01	Referred to Business & Economic Development
2/02	First Reading
2/06	Fiscal Note Requested
2/11	Fiscal Note Received
2/14	Hearing
2/14	Fiscal Note Printed
2/15	Tabled in Committee

1 *House* BILL NO. *541*
 2 INTRODUCED BY *Kados Donerty Whalen*
 3 *A. Lynn* *By* *Revised*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE BANKING
 5 LAWS; TO REQUIRE COMMUNITY REINVESTMENT RESPONSIBILITY OF
 6 BANKS; TO REQUIRE AN ANNUAL DISCLOSURE REPORT; TO PLACE A
 7 REPRESENTATIVE OF A LOW- OR MODERATE-INCOME ORGANIZATION ON
 8 THE STATE BANKING BOARD; AMENDING SECTIONS 2-15-1803,
 9 32-1-102, AND 32-1-109, MCA; AND PROVIDING A DELAYED
 10 EFFECTIVE DATE."
 11

STATEMENT OF INTENT

A statement of intent is required for this bill because it authorizes the state banking board to adopt rules to determine the basic service area for a bank and the form of annual community reinvestment reports. The legislature intends that in adopting rules, the board look to the rules and regulations adopted by Iowa and New York in order to implement similar rules.

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

Section 1. Section 2-15-1803, MCA, is amended to read:

"2-15-1803. State banking board -- composition -- allocation. (1) There is a state banking board.

(2) The board is composed of seven members, including

the director of commerce, or his designee, who is the chairman of the board. The remaining six members of the board shall must be appointed with consideration given banks of small, medium, and large size and to geographical distribution. At least one banker member and one public member shall must be appointed from each congressional district of the state as the districts existed on December 31, 1990. Two of the six members shall must be active officers in state banks of Montana, one shall must be an active officer of a national bank doing business in Montana, and three shall must be members of the public, none of whom shall be is an officer, director, or shareholder of any state or national bank. One public member shall represent a low- or moderate-income organization.

(3) The members governor shall be-appointed-by appoint the governor members with the consent of the senate for terms of 3 years. Vacancies shall must be filled by appointment for the unexpired term. No member other than the director of commerce may serve more than two consecutive terms.

(4) The board is allocated to the department for administrative purposes only as provided in 2-15-121."

Section 2. Section 32-1-102, MCA, is amended to read:

"32-1-102. Institutions to which chapter is applicable.

(1) The word "bank", as used in this chapter, means any



1 corporation, wherever incorporated, which that has been
 2 incorporated to conduct the business of receiving money on
 3 deposit or transacting a trust or investment business, as
 4 defined in this chapter.

5 (2) The soliciting, receiving, or accepting of money or
 6 its equivalent on deposit as a regular business is doing a
 7 commercial or savings bank business, whether such the
 8 deposit is made subject to check or is evidenced by a
 9 certificate of deposit, a passbook, a note, or other
 10 receipt, provided that nothing herein in this chapter
 11 applies to or includes money or its equivalent left in
 12 escrow or left with an agent pending investment in real
 13 estate or securities for or on account of his principal.

14 (3) It is unlawful for any corporation, partnership,
 15 firm, or individual to engage in or transact a banking
 16 business within this state except by means of a corporation
 17 duly organized for such-purpose banking purposes.

18 (4) Banks are divided into the following classes:

- 19 (a) commercial banks;
- 20 (b) savings banks;
- 21 (c) trust companies;
- 22 (d) investment companies.

23 (5) This chapter does not apply to any an investment
 24 company or corporation established prior to March 8, 1927,
 25 under authority of the law of Montana not accepting,

1 receiving, or holding money on deposit."

2 **Section 3.** Section 32-1-109, MCA, is amended to read:

3 **"32-1-109. Definitions.** Unless the context requires
 4 otherwise, the following definitions apply:

5 (1) "Board" means the state banking board provided for
 6 in 2-15-1803.

7 (2) "Branch bank" means a banking house, other than the
 8 main banking house, maintained and operated by a bank doing
 9 business in the state but does not include a detached
 10 facility, as provided for in 32-1-372, or a satellite
 11 terminal, as defined in 32-6-103.

12 (3) "Capital", "capital stock", and "paid-in capital"
 13 mean that fund for which certificates of stock are issued to
 14 stockholders.

15 (4) "City" means a city, town, or municipality,
 16 incorporated or unincorporated, that is an aggregation of
 17 inhabitants and structures sufficient to constitute a
 18 distinct place.

19 (5) "City limits" means, in the case of:

20 (a) an incorporated city, the corporate limits as
 21 provided for in 7-2-4101; or

22 (b) an unincorporated place, the boundaries that under
 23 the circumstances define the city as a distinct place.

24 (6) "Common ownership" means the ownership, directly or
 25 indirectly, of 80% or more of the voting stock of each of

1 two or more banks by an individual, group of individuals,
2 entity, or corporation.

3 (7) "Community advisory board" means a group of
4 citizens to advise the management of a branch bank, a
5 majority of whom must be residents of the county in which
6 the branch bank is located.

7 (8) "Consolidate" and "merge" mean the same thing and
8 may be used interchangeably in this chapter.

9 (9) "Demand deposits" means all deposits, the payment
10 of which can legally be required when demanded.

11 (10) "Department" means the department of commerce
12 provided for in Title 2, chapter 15, part 18.

13 (11) "Main banking house" means the principal place of
14 business of a bank in the state.

15 (12) "Net earnings" means the excess of the gross
16 earnings of a bank over expenses and losses chargeable
17 against those earnings during any one 1 year.

18 (13) "Profit and loss account" or "profit and loss"
19 means that account carried on the books of the bank into
20 which all earnings accounts and recoveries are closed, thus
21 exhibiting "gross earnings", and against which all loss and
22 other disbursement items are charged, revealing "net
23 earnings", which are then properly closed to "undivided
24 profits accounts" or "undivided profits", out of which
25 dividends are paid and reserves set aside.

1 (14) "Small business" means a small business as defined
2 in 33-27-103.

3 ~~(14)~~(15) "Surplus" means a fund paid in or created under
4 this chapter by a bank from its net earnings or undivided
5 profits which that, when set apart and designated as such,
6 is not available for the payment of dividends and cannot be
7 used for the payment of expenses or losses so long as ~~such~~
8 the bank has undivided profits.

9 ~~(15)~~(16) "Time deposits" means all deposits, the payment
10 of which cannot legally be required within 7 days.

11 ~~(16)~~(17) "Undivided profits" means the credit balance of
12 the profit and loss account of a bank.

13 (18) "Very small business" means a small business that
14 regularly employs 10 or fewer persons."

15 NEW SECTION. Section 4. Community reinvestment
16 responsibility of banks. (1) A bank shall meet the credit
17 needs of the community or communities in which it is
18 located, including low- and moderate-income neighborhoods
19 and rural areas within the bank's basic service area,
20 consistent with safe and sound operations of the financial
21 institution.

22 (2) For purposes of this section, "low- and
23 moderate-income neighborhoods" means census tracts in which
24 the median family income does not exceed 80% of the median
25 family income within the bank's basic service area.

1 NEW SECTION. Section 5. Annual disclosure report --
 2 determination of service areas -- public notice. (1) A bank
 3 shall submit an annual community reinvestment disclosure
 4 report to the board, in a form determined by the board by
 5 rule. The report must describe:
 6 (a) the credit needs of the community served by the
 7 bank and the method by which this determination was made;
 8 (b) the methods used to market to the community the
 9 credit services offered by the bank, including efforts used
 10 to market services to low- and moderate-income persons;
 11 (c) a description of how services actually provided by
 12 the bank satisfied the credit needs provided for in
 13 subsection (1)(a); and
 14 (d) the bank's participation in local, state, and
 15 federal business and economic development programs, small
 16 business assistance programs, programs addressing the
 17 financial needs of minorities, and programs that meet the
 18 specific credit needs of rural communities.
 19 (2) The board shall adopt rules for determining the
 20 basic service area of a bank's facilities as defined in the
 21 federal Community Reinvestment Act of 1977, its business
 22 practices, and the location, distribution, and concentration
 23 of its borrowers and depositors.
 24 (3) A bank shall provide a public notice in the lobby
 25 of each of its facilities that requests the public to submit

1 comments to the bank regarding its community-lending
 2 activities. Each bank shall maintain a file open to public
 3 inspection that contains the five most recent annual
 4 community reinvestment disclosure reports, public comments
 5 received on its community investment activities, and the
 6 bank's response to those comments and shall provide copies
 7 at no more than the cost of reproduction.

8 NEW SECTION. Section 6. Community reinvestment
 9 disclosures. A bank with more than \$5 million in assets
 10 shall disclose the following for each type of loan as part
 11 of the annual community reinvestment disclosure report
 12 provided for in [section 5]:

13 (1) the number and aggregate dollar amount of housing,
 14 commercial, very small business, small business,
 15 agricultural, and consumer loans originating in this state;
 16 and

17 (2) by census tract, the number and aggregate dollar
 18 amount of housing, commercial, very small business, small
 19 business, agricultural, and consumer loans originating
 20 within lower-income neighborhoods within the bank's basic
 21 service area.

22 NEW SECTION. Section 7. Codification instruction.
 23 [Sections 4 through 6] are intended to be codified as an
 24 integral part of Title 32, chapter 1, and the provisions of
 25 Title 32, chapter 1, apply to [sections 4 through 6].

1 NEW SECTION. **Section 8.** **Saving clause.** [This act] does
2 not affect rights and duties that matured, penalties that
3 were incurred, or proceedings that were begun before [the
4 effective date of this act].

5 NEW SECTION. **Section 9.** **Severability.** If a part of
6 [this act] is invalid, all valid parts that are severable
7 from the invalid part remain in effect. If a part of [this
8 act] is invalid in one or more of its applications, the part
9 remains in effect in all valid applications that are
10 severable from the invalid applications.

11 NEW SECTION. **Section 10.** **Effective date.** [This act] is
12 effective July 1, 1992.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0541, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to amend the banking laws; to require community reinvestment responsibility of banks; to require an annual disclosure report; to place a representative of low or moderate income organizations on the State Banking Board; amending sections 2-15-1803, 32-1-102, and 32-1-109, MCA; and providing a delayed effective date.

ASSUMPTIONS:

1. Approximately 150 state and national banks are located in Montana.
2. The impact of the proposed legislation in FY92 would be rule making. The provisions for annual disclosure reports and community reinvestment disclosures would be implemented in FY93.
3. The increased advisory capacity of the State Banking Board would require at least two more board meetings per year.
4. The Financial Division of the Department of Commerce will need 0.25 FTE at grade 14 to process and review disclosure reports and implement the potential examination and enforcement provisions of proposed legislation.
5. The semi-annual assessment fee currently charged by the Financial Division of the Department of Commerce will be increased to recover the additional cost from the increase in workload.

FISCAL IMPACT:Financial Division:Expenditures:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	0.00	0.00	0.00	0.00	0.25	0.25
Personal Services	0	300	300	0	6,510	6,510
Operating Costs	0	2,175	2,175	0	4,450	4,450
Total	0	2,475	2,475	0	10,960	10,960

Funding:

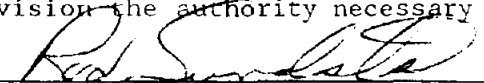
State Special Revenues	0	2,475	2,475	0	10,960	10,960
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Revenues:

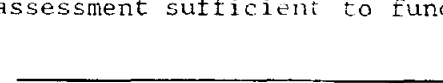
Assessment Fees (02)	0	2,475	2,475	0	10,960	10,960
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TECHNICAL NOTES:

1. The requirements of the proposed legislation are currently provided by special examination conducted by FDIC, OCC, and Federal Reserve examination teams.
2. The Financial Division does not currently examine national banks. The proposed legislation does not grant the Financial Division the authority necessary to charge national banks an assessment sufficient to fund the proposed services.


 ROD SUNDSTED, BUDGET DIRECTOR
 Office of Budget and Program Planning

DATE


 MIKE KADAS, PRIMARY SPONSOR

DATE

Fiscal Note for HB0541, as introduced.**HB 541**