

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By J.D. Lynch, Chair, on March 4, 1993, at 10:05 a.m.

ROLL CALL

Members Present:

Sen. J.D. Lynch, Chair (D)
Sen. Chris Christiaens, Vice Chair (D)
Sen. John Brenden (R)
Sen. Betty Bruski-Maus (D)
Sen. Delwyn Gage (R)
Sen. Tom Hager (R)
Sen. Ethel Harding (R)
Sen. Ed Kennedy (D)
Sen. Terry Klampe (D)
Sen. Francis Koehnke (D)
Sen. Kenneth Mesaros (R)
Sen. Doc Rea (D)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Kristie Wolter, Committee Secretary

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

Committee Business Summary:

Hearing: HB 358, HB 201
Executive Action: HB 304, HB 358, HB 139

HEARING ON HB 358

Opening Statement by Sponsor:

Representative Joe Barnett, House District 76, stated HB 358 constituted a compromise within the banking business.

Proponents' Testimony:

Bill Ruegamer, First Interstate Bank of Commerce, Montana Bankers

Association, Montana Independent Bankers, and System Banks, read from an outline he supplied the Committee (Exhibit #1).

Jim Bennett, First Citizens Bank, Billings, stated his support of HB 358.

John Cadby, Montana Bankers Association, stated his support of HB 358.

Tom Ellis, Norwest Bank, Helena, stated his support of HB 358.

Ed Jasmin, Norwest Banks, stated his support of HB 358.

Steve Browning, Norwest Banks, stated his support of HB 358.

Joe Thares, Montana Independent Bankers, stated his support of HB 358.

Gene Phillips, First Interstate Bank of Montana stated his support of HB 358.

Rex Manuel, First Banks, stated his support of HB 358.

Peter Van Nice, Valley Bank of Helena, stated his support of HB 358.

John Delano, Montana Bancsystems, stated his support of HB 358.

Larry Fosbender, Bank of Montana Systems, stated his support of HB 358.

Roger Tippy, Montana Independent Bankers, stated his support of HB 358 and supplied the Committee with a proposed amendment (Exhibit #2). He read from prepared testimony (Exhibit #3).

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Gage asked Mr. Tippy if HB 358 would include the "detached facilities" addressed in SB 74. Mr. Tippy stated HB 358 included the language from SB 74 which had been carried by Senator Hager.

Senator Kennedy asked Mr. Phillips about the reorganization of the First Interstate Bank in Kalispell and how HB 358 would effect jobs in the Kalispell area. Mr. Phillips stated HB 358 would not effect the reorganization of banks.

Referring to number seven on exhibit #1, Senator Klampe asked Mr. Ruegamer if it was possible for a bank outside of the region to

infiltrate and take over regional banks. Mr. Ruegamer stated banks outside of the region could, eventually, hold banks inside the region. He stated he would not refer to it as "takeover" or "infiltration" but would say the banks would be allowed to conduct business in the state. Senator Klampe asked Mr. Ruegamer where the "three year" language was derived from. Mr. Ruegamer stated the language was derived because it is not practical to open a bank and hold it for three years to circumvent the law. Senator Klampe asked Mr. Ruegamer why HB 358 would provide for banks outside of the region to own banks in the state. Mr. Ruegamer stated allowance of the outside region banks would make HB 358 an interstate banking bill.

Senator Bruski-Maus asked Mr. Manuel how HB 358 would affect First National Bank (FNB) and if FNB was a part of the collaborative process. Mr. Manuel stated he was a representative of FNB and they supported HB 358.

Senator Kennedy asked Mr. Tippy if the loss of "family type" banks would be a concern if HB 358 passed. Mr. Tippy stated the values of the Independent Bankers Association (IBA) were values for small town banks. He stated the IBA plea-bargained with the Board, and realized they had to reach a compromise with the larger bank organizations. He stated Congress would have changed the "Douglas Amendment" and larger banks from outside of the region would have bought regional banks and moved the headquarters out of state without HB 358. He stated the small town banks pulled for the best bargain they could to keep that process from happening. He stated HB 358 "opts out of any unrestricted interstate banking which Congress may have ruled for". He stated the Douglas Amendment says "a bank anywhere may buy a bank in any other state unless the state opts out". He stated HB 358 would save the small town banks.

Senator Gage asked Mr. Ruegamer if the 49% provision would apply to holding companies within the region and outside of the region. Mr. Ruegamer answered "yes."

Senator Gage asked Mr. Tippy the same question as he had asked Mr. Ruegamer. Mr. Tippy stated with the amendment the in-state holding must be 51%.

Senator Gage asked Mr. Tippy what would happen if an in-state holding company moves out of state. Mr. Tippy stated for an in-state holding company to move out of state they would most likely be involved in an acquisition. He stated if there was an acquisition, the holding companies must go before the Federal Reserve Board (FRB) and to obtain approval. He stated the FRB could not approve the acquisition if they applied the standards of state law.

Closing by Sponsor:

Representative Barnett stated HB 358 was a "true compromise" and provided protection for individual banks. He stated HB 358 gives Montana the option to "opt out" of the Douglas Amendment proposed by Congress.

EXECUTIVE ACTION ON HB 358

Motion/Vote:

Senator Gage moved HB 358 BE AMENDED (Exhibit #2). The motion CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Gage moved HB 358 BE CONCURRED IN AS AMENDED. The motion CARRIED 11 to 2 with Senator Kennedy and Senator Bruski-Maus voting NO.

HEARING ON HB 201

Opening Statement by Sponsor:

Representative Chase Hibbard, House District 46, stated HB 201 addressed the general banking laws which were written in 1927. He provided written testimony (Exhibit #4) and went over points of it in his oral testimony. He reviewed the fiscal note with the Committee and stated there would be no financial impact from HB 201.

Proponents' Testimony:

John Cadby, Montana Bankers Association, stated his support of HB 201.

Tom Ellis, Norwest Bank, Helena, stated his support of HB 201.

Bill Ruegamer, First Interstate Bank of Commerce, Chairman, Banking Codes Advisory Council, stated his support of HB 201.

Jim Bennett, First Citizens Bank, Billings stated his support of HB 201.

Bill Thares, Montana Independent Bankers, stated his support of HB 201.

Rex Manuel, First Banks, stated his support of HB 201.

Roger Tippy, Independent Bankers, stated his support of HB 201.

Gary Carlson, Certified Public Accountant, stated his support of HB 201.

Peter Van Nice, Valley Bank, Helena, stated his support of HB 201.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Christiaens asked Representative Hibbard about the changes in pay for administrators. Representative Hibbard stated the pay changes would only address the commissioners and not the examiners. He stated the fiscal note cited an increase to the commissioner's salary which would be offset by financial institution assessments.

Senator Lynch asked Mr. Hutchinson why the Governor's banking Council recommended an increase the salaries of bank examiners. Don Hutchinson, Commissioner of Financial Institutions, stated the increases would be handled administratively. Senator Lynch asked Mr. Hutchinson who was going to allow the 30% raises. Mr. Hutchinson stated the raises were not part of HB 201, and the case for the raises would be brought before the personnel in the Department of Administration. He stated the Department would ultimately decide on the raises.

Senator Gage asked Mr. Hutchinson if the title inferred that if a bank had undergone a federal audit , the state would not have to audit the bank again. Mr. Hutchinson stated the provision has always been in place and the audits would have to be accepted by the other auditing office. He stated the overlapping audits would be corrected through HB 201 because federal and state auditors would enter into cooperative agreements.

Senator Gage asked Mr. Hutchinson if the audit by the state should be disclosed to the share holders. Mr. Hutchinson stated there is a state rule which says the audit results shall not be disclosed to the share holders of a bank. He stated the state law parallels federal statutes. Senator Gage asked if HB 201 could include a section which would allow for disclosure of information from an audit. Mr. Hutchinson stated the law applied to the proprietary nature of the examination. He stated the law is to protect the proprietary information from the audit.

Senator Brenden asked Mr. Ruegamer why the Director of Commerce left off of the Board. Mr. Ruegamer stated the Director was left off as a matter of practicality. He stated the Director chose not to serve on the Board.

Closing by Sponsor:

Representative Hibbard stated HB 201 does not presuppose the

raises in Exhibit #4. He stated HB 201 was supported by all of the major banking associations in the state. Representative Hibbard stated HB 201 would update the banking laws which are antiquated.

EXECUTIVE ACTION ON HB 304

Motion/Vote:

Senator Christiaens moved HB 304 BE CONCURRED IN. The motion carried 12 to 1 with Senator Klampe voting NO.

EXECUTIVE ACTION ON HB 139

Motion/Vote:

Senator Kennedy moved HB 139 BE AMENDED (Exhibit #5). The motion carried UNANIMOUSLY.

Motion/Vote:

Senator Mesaros moved HB 139 BE CONCURRED IN AS AMENDED. The motion carried UNANIMOUSLY.

EXECUTIVE ACTION ON HB 222

Discussion:

Senator Bruski-Maus stated HB 222 should be killed in Committee. She stated the Subcommittee decided to hear their constituent's opinions on it. She stated her constituents had given her the impression that licensure was necessary but the price was too high.

Senator Gage stated the Department of Justice felt the fees had to be high in order to finance the inspections.

Senator Brenden stated he concurred with Senator Gage and Senator Bruski-Maus. He added the burden of cost through a licensing fee was necessary, but the licensing fee was too high.

Senator Lynch stated he did not want to foster an anti-business climate. He stated Montana would be the only state in the Union which would make the larger corporations register and pay a \$200 license fee to sell a \$9 fire extinguisher. He stated the fee was too high and seemed impractical. He stated he felt it was incorrect not to charge the large corporations anything at all.

Senator Christiaens stated he felt HB 222 was covering two areas. He stated he would like to see an exemption on portable extinguishers. He stated there was a need for inspections of the systems.

Senator Mesaros asked Senator Gage if the Department of Justice had either recommended a fee and or indicated that the fee was absolutely necessary. Senator Gage stated the indication was the fee was necessary for the installation of three more inspectors.

Senator Lynch stated there was no need for a grade 16, plan reviewer to be appointed.


Senator Gage stated the Subcommittee and the Department of Justice were considering exempting the portable extinguishers. He stated another issue which arose was requiring insurance companies to inspect systems before they write a policy on the system. He stated HB 222 would cause duplication of inspections.

Senator Lynch stated the rural fire departments should be trained in the inspection process. He added someone should be appointed from the rural fire departments to perform the inspections.


Senator Klampe stated he had received a letter from the Florence Rural Fire Department in full support of HB 222.

ADJOURNMENT

Adjournment: 10:55 a.m.



SENATOR J.D. LYNCH, Chair



KRISTIE WOLTER, Secretary

JDL/klw

ROLL CALL

SENATE COMMITTEE Business & Industry

DATE 3/4/92

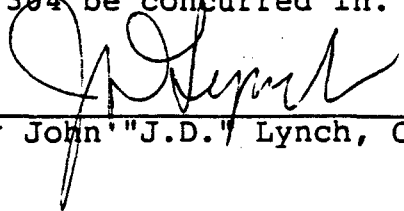
NAME	PRESENT	ABSENT	EXCUSED
Senator Lynch	✓		
Senator Christiaens	✓		
Senator Bruski-Maus	✓		
Senator Gage	✓		
Senator Hager	✓		
Senator Harding	✓		
Senator Kennedy	✓		
Senator Klampe	✓		
Senator Koehnke	✓		
Senator Mesaros	✓		
Senator Rea	✓		
Senator Faust Brenden	✓		
Senator Wilson	✓		

SENATE STANDING COMMITTEE REPORT


Page 1 of 1
March 4, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 304 (first reading copy -- blue), respectfully report that House Bill No. 304 be concurred in.

Signed: 

Senator John "J.D." Lynch, Chair


Amd. Coord.
Sec. of Senate


Senator Carrying Bill

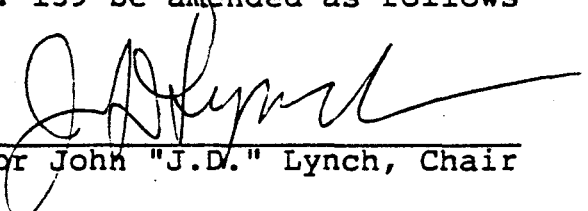
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 4, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 139 (first reading copy -- blue), respectfully report that House Bill No. 139 be amended as follows and as so amended be concurred in.

Signed: 

Senator John "J.D." Lynch, Chair

That such amendments read:

1. Title, line 8.

Following: "INCURRED"

Strike: "OR"

Insert: ", "

Following: "SUFFERED"

Insert: ", OR CAUSED"

Following: "SURVEYORS"

Insert: "OR PERSONS UNDER THE LAND SURVEYORS' CONTROL;

DETERMINING LIABILITY FOR GOVERNING AUTHORITIES FOR DAMAGES CAUSED OR SUFFERED BY LAND SURVEYORS OR PERSONS UNDER THE LAND SURVEYORS' CONTROL; DETERMINING LIABILITY FOR PUBLIC UTILITIES, MUNICIPAL CORPORATIONS, OR OTHER PERSONS HAVING THE RIGHT TO BURY UNDERGROUND FACILITIES FOR DAMAGES SUFFERED BY LAND SURVEYORS' OR PERSONS UNDER THE LAND SURVEYORS' CONTROL"

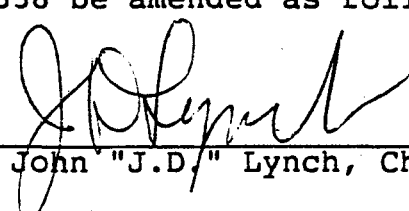
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 4, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 358 (first reading copy -- blue), respectfully report that House Bill No. 358 be amended as follows and as so amended be concurred in.

Signed: 

Senator John "J.D." Lynch, Chair


That such amendments read:

1. Page 5, line 14.

Following: "control"

Insert: ", by all bank holding companies that do not have headquarters in this state,"

-END-


Amd. Coord.
Sec. of Senate


Senator Carrying Bill

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HOUSE BILL 358

INTERSTATE BANKING

MONTANA BANKERS ASSOCIATION & MONTANA INDEPENDENT BANKERS

I. INTERSTATE BANKING Authorizes out-of-state bank holding companies, headquartered in this "Region", to purchase (not branch) Montana banks and Montana banks to purchase banks in neighboring states.

II. REGION The Region is defined as Idaho, Wyoming, North Dakota, South Dakota, Minnesota, Wisconsin, Colorado (First Interstate Bank of California grandfathered).

III. SIX YEAR CHARTER Authorizes bank holding companies to purchase only banks that have existed at least 6 years.

IV. DEPOSIT CAP Limits bank concentration to % of total deposits:

1993	18%	1996	21%
1994	19%	1997 & beyond	22%
1995	20%		

V. AGGREGATE CAP Limits ownership of Montana banks by all out-of-state bank holding companies to 49% of total deposits.

VI. APPROVAL PROCESS Acquisitions are subject to review and approval by the Federal Reserve. The State Commissioner may enjoin any acquisition deemed to be in contravention of Montana law.

VII. DIVESTITURE If a regional bank holding company, e.g. Norwest or First Bank, is acquired by a holding company outside the region, all Montana banks held less than 3 years must be sold off within 2 years.

VIII. DETACHED FACILITIES The number of authorized detached teller facilities (drive-ups) is increased from 1 to 2 in Billings, Great Falls, Missoula, Helena, Butte and Bozeman.

EFFECTS OF BILL

- A. Interstate financial transactions are a fact of life and needed in a world market by some Montana businesses.
- B. Preserves and protects locally owned independent banks (there are still 12,000 banks in the nation).
- C. Keeps Montana in step with the rest of the nation (48 states have had interstate banking for years).
- D. More access to capital for lending and economic development.
- E. Greater flexibility in designing financial packages to meet specialized needs of individual businesses and consumers.

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 2

DATE 3/4/93

BILL NO. HB 358

Amend House Bill 358, third reading bill, as follows:

1. Page 5, line 14

Following: "control"

Insert: ", by all bank holding companies that do not have
headquarters in this state,"

BEFORE THE COMMITTEE ON BUSINESS & INDUSTRY
MONTANA SENATE

Re: House Bill 358

Mr. Chairman and Committee members, I am Roger Tippy, attorney and lobbyist for the Montana Independent Bankers Association (MIB). The community bankers of MIB support this legislation before you today, not because it will improve the structure of the banking industry in Montana but because it will manage and control the rate of change to that structure and no action by the legislature this year might subject that structure to more rapid change and concentration of banks.

For 37 years, the acquisition of banks in Montana by bank holding companies in other states has been held in abeyance by this provision of federal law, known as the Douglas Amendment to the Bank Holding Company Act:

[The Federal Reserve Board may not approve an interstate acquisition of a bank unless the acquisition] is specifically authorized by the statute laws of the State in which such bank is located, by language to that effect not merely by implication.

For 37 years, as Montana communities and their economies grew, new banks were chartered to meet new needs for banking services. We eventually came to have over 150 separate banks in Montana, each governed by its own board of directors and responsive to the needs of the community. Community bankers see such a decentralized structure as good, as a positive benefit to the economy and as a stabilizing influence. The failure or mismanagement of an individual bank cannot shake the entire economy of a state when there are many small banks. Today, we have less than 150 distinct banks by virtue of the merger and consolidation law approved by this committee and the legislature in 1989.

More changes are afoot than just consolidation, however. Over the years, one state after another has opted in, within the Douglas Amendment framework, to the interstate bank acquisition mode. You have heard it before and it is true: 49 states now allow interstate banking in one form or another. Montana is indeed the Last Best Place, but in this regard it cannot remain the last best place forever. Congress seems increasingly disposed to modify the Douglas Amendment, and our information from our national trade association, the Independent Bankers Association of America, is that such modifications are very likely to be enacted in this Congress, by 1994. One possible scenario is that full, unrestricted interstate bank acquisition will be the norm unless a state opts out of such a system.

MIB therefore drew up a proposal, and then came to the bargaining table with the other elements in the banking industry, with the

idea in mind that we would present you with a bill to opt in, with limits, under the present Douglas Amendment, and to opt out, except within those limits, if the Douglas Amendment changes. The bargaining was spirited and intense. The compromise which emerged allows a bit more interstate bank acquisition than we would have liked, and no doubt allows a bit less acquisition than the other elements would have liked to see.

Representative Barnett has presented the main points of the compromise: a regional limitation, asset limits on any one bank holding company's acquisitions and on the aggregate acquisitions of all out-of-state holding companies, and a limited divestiture formula. All these ideas have been borrowed from other states who have ventured cautiously into the arena of interstate banking. They have been approved by the U. S. Supreme Court in a 1985 decision interpreting the Douglas Amendment (*Northeast Bancorp. v. Board of Governors*, 472 U.S. 159).

Limiting the direct acquisition authority to holding companies headquartered within a region of nearby states is a feature of some 17 states' laws. Our bill also requires reciprocity from the other states within the region; all seven states on this list should qualify as reciprocating. It is certainly possible that this list might expand in future years: the Minnesota legislature began interstate banking with just four states and has gradually amended that law to where it now names 14 states. For now, we urge you to enact the bill with the seven states named.

The bill recognizes the possibility that a bank holding company in one of those seven states might be taken over by or merge with another such company outside the region. The compromise language says that if the formerly regional bank holding company held a Montana bank for at least three years before it became a non-regional holding company, it can keep that bank. If the period of control was less than three years, it must divest itself of the Montana bank. It has two years to make the sale, a provision we borrowed from the Arkansas law.

The two sets of asset limitations apply at the time of a proposed acquisition. They do not limit natural growth beyond these limits. The Federal Reserve applies other factors, a complicated formula known as the Hirschfield-Herfindahl Index, in deciding whether a proposed acquisition would result in too much market concentration in a given community. In our view, the Fed's formula could still allow three or four holding companies to acquire all the banks in the state, and asset caps are a means of maintaining a greater degree of diversity than that.

These limits are to be applied by the Federal Reserve. We conceded the point that state agencies did not have to conduct separate hearings; that the application and opportunity for hearing before the Fed was enough administrative procedure.

MONTANA STATE BANKING CODE ADVISORY COUNCIL

BACKGROUND

Montana state chartered banks and trust companies are chartered and regulated by the Financial Division of the Montana Department of Commerce. The Division currently regulates 86 banks and 3 trust companies with total assets approaching 4 billion dollars. The Commissioner of Financial Institutions is the Administrator of the Financial Division.

The bulk of Montana's banking laws (the Bank Act, Title 32, Chapter 1, MCA) were written in 1927. Many of the banking laws have been amended one or more times since then, in an attempt to keep pace with changes in the banking industry and public needs. However, no comprehensive review of banking law appears to have taken place since 1927. Amendments to existing laws occasionally have created conflicts or inconsistencies with other laws. Certain laws which are dealt with only infrequently may not have been amended or updated and address archaic concepts. Coupled with very rapid changes in federal laws, and changes in other pertinent state laws (especially the Uniform Commercial Code and the corporate code) it has become increasingly difficult for banks, regulators and the legal system to confidently and effectively deal with the Bank Act.

In response to this situation, Governor Stephens issued Executive Order 34-91 on December 3, 1991, creating the Montana State Banking Code Advisory Council. The Council was created for "...identifying outdated language and requirements as well as omissions or conflicts in statute that are not conducive to the proper supervision of state banks." Issues to be addressed, at a minimum, included:

"(a) Ensuring the powers and duties of the Commissioner of Financial Institutions are clearly set forth in the Banking Code.

(b) Defining a comprehensive mission and purpose for the Financial Division as it relates to the regulation and supervision of state banking institutions.

(c) Ensuring that the Commissioner of Financial Institutions is involved in the legislative process with the responsibility for drafting legislation and determining the impact on the public, the banking community and the Financial Division.

(d) Ensuring that statutory authority is developed to address the areas where supervision is now lacking but deemed necessary for the proper supervision of state banks, including the examination of holding companies, electronic data processing and community reinvestment requirements, etc."

The members of the Council agreed not to address interstate banking, interstate branching or intrastate branching.

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 4

DATE 3/4/93

BILL NO. HB 201

The Council is composed of 18 members: 6 from the banking industry, 2 attorneys representing both of the state's banking associations, 2 accountants, 1 member of the State Banking Board, 2 private citizens, the Commissioner of Financial Institutions, the attorney for the Financial Division, the Director of the Department of Commerce, a member of the Montana Senate, and a member of the Montana House of Representatives.

The recommendations of the Council have been reported to and reviewed by the Financial Division of the Department of Commerce, the State Banking Board and are in the process of being reviewed by a committee of the State Bar Association. The report has been submitted to the Governor's Office and to the Legislative Council for drafting.

RECOMMENDATIONS OF THE COUNCIL

Most of the recommendations made by the Council are of a "house-keeping" nature: modernizing language, clarifying duties and responsibilities, eliminating sections of law that clearly are obsolete, and correcting conflicts with other laws. Significant real changes affecting the operation of banks or the Financial Division include:

<u>Section</u>	<u>Change</u>
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- | | |
|----------|---|
| 32-1-211 | Reduces from 30 months to 24 months the time allowed between bank examinations by the Financial Division. Also reduces from 120 days to 60 days the time allowed for submitting the completed examination report to the bank. |
| 32-1-218 | Broadens the Financial Division's rulemaking authority to better meet its responsibilities and obligations. |
| 32-1-3xx | This Part of the law generally governs the formation and organization of the banking <u>corporation</u> . Wherever reasonable and prudent, general corporation law will be incorporated into this Part. A number of existing sections will be deleted. The intent is to modernize and standardize bank's corporate matters. |
| 32-1-412 | Increases, to a certain extent, the ability of banks to borrow money to accommodate the use of repurchase agreements, which possess characteristics of both deposits and borrowings; and to allow participation in certain federal housing programs. |
| 32-1-422 | Gives the Financial Division rulemaking authority to permit bank investments in certain types of corporate stock. |

3-4-93

HB-201

32-1-432 Addresses long-time problems and misunderstandings of legal lending limits to borrowers.

32-1-465 &

32-1-467 Reduces restrictions on bank officer, director and employee overdrafts and loans to directors or a bank's managing officer. Brings state law into conformance with existing federal law.

In addition to the legal recommendations, the Council also recognized staff retention problems within the Financial Division and recommended increasing bank examiner salaries and using certain incentives in an attempt to retain experienced examiners.

BANKING CODE ADVISORY COUNCILRECOMMENDATION ON BANK EXAMINER PAY

The history of employing financial institution examiners within the Department of Commerce has been one of frustration and inefficiency. The Financial Division has been able to advertise for and employ entry level examiners with little difficulty. The entry level examiners are usually hired upon graduation in accounting from an accredited university or college. The degree they received in college is basically the minimum qualification required to enter a training period to become a qualified financial institution examiner. After employment, the division will spend over \$5,000 in direct training costs for schools administered by the Federal Deposit Insurance Corporation (FDIC) and the Council of State Bank Supervisors (CSBS). Additional funds will be spent on travel, meals and lodging. In addition, this training period greatly reduces the examiner-in-training's ability to perform useful examination work for the division and the financial institutions being examined.

Following this initial training period, examiners spend several years performing progressively responsible duties in the examination process. Ultimately, a seasoned examiner earns the title of "Examiner-in-Charge" and is responsible for the supervision of other examiners while performing an examination of a financial institution. Unfortunately, once the examiners have been educated by the state, their worth in the market place is such that the state can no longer afford to employ these individuals. The tenure with the department is typically 2.5 years which is well before the department receives a return on the training investment cost which has already been committed.

Employees of the Financial Division have opportunities for employment with surrounding states and with federal agencies which include the Federal Reserve Bank of Helena, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the National Credit Union Administration. The comparatively low salaries for examiners working for the State of Montana creates a situation where the state is in many instances a training program for other states, federal agencies, and private financial institutions. This diminishes the quality, effectiveness and timing of the Financial Division in performing its statutorily mandated examination responsibility to financial institutions. It also adversely affects those financial institutions who pay annual fees to the state for examinations.

Since January of 1988, the Financial Division has hired 17 permanent, full-time examiners to fill the 15 legislatively authorized examination positions. Of these 17 new hires, 10 remain with the division but 7 of those have been employed for less than one year. Only two of the existing examiners have been employed with the Financial Division since 1989. This turnover is thought to occur because of two main factors -- travel demands in the job and comparatively low pay for higher level examiners. These two factors combined result in the loss of virtually every new employee hired within the first two and one-half years. These employees leave just at the time they have received sufficient education and experience provided by the state to independently perform the examinations.

Because of the turnover in 1991, the Division attempted to hire two experienced examiners. An advertisement was placed in a trade newsletter that goes directly to the homes of more than 400 examiners and also to every banking department in the U.S. No inquiries were received by the Financial Division as a result of this advertisement and it is assumed that the comparatively low pay for experienced examiners was the reason. The attached schedule compares Montana bank examiner salaries with the average of those paid by other employers in the region. Entry level examiner positions are similar in pay while more experienced examiners in the grade 15 and 16 level are paid substantially less by the State of Montana.

GRADE 14 PAY COMPARISON TO PEER GROUP

EMPLOYER:	MINIMUM	MIDRANGE	MAXIMUM
Montana - 1992	\$23,587	\$28,627	\$34,740
Peer Group Average	\$25,305	\$30,269	\$35,656
Difference	-\$1,718	-\$1,642	-\$ 916

Note: The peer group compared in the analysis consists of the states of North Dakota, South Dakota, Wyoming, Idaho, National Credit Union Association, Office of the Comptroller of the Currency, Federal Reserve Board, and the Federal Deposit Insurance Corporation. All of the peer group federal agencies use salary figures for Montana assigned employees.

GRADE 15 PAY COMPARISON TO PEER GROUP

EMPLOYER:	MINIMUM	MIDRANGE	MAXIMUM
Montana - 1992	\$25,694	\$31,258	\$38,026
Peer Group Average	\$29,799	\$37,369	\$46,803
Difference	-\$4,105	-\$6,111	-\$8,777

See Note on previous page

GRADE 16 PAY COMPARISON TO PEER GROUP

EMPLOYER:	MINIMUM	MIDRANGE	MAXIMUM
Montana - 1992	\$28,044	\$34,199	\$41,706
Peer Group Average	\$39,323	\$46,994	\$55,429
Difference	-\$11,279	-\$12,795	-\$13,723

See Note on previous page

RECOMMENDATION:

It is the recommendation of the Governor's Banking Code Advisory Council that management within the Department of Commerce be given the discretion to;

- a) increase the salaries of bank examiners up to the peer group average in accordance with state policy and law;
- b) maximize incentives for experienced examiners through salary, recognition, and increasingly responsible supervisory and examination responsibilities.
- c) the State Banking Board shall periodically review salary information and establish the current group average.

A. PROGRAM OVERVIEW (Statutes & Objectives)

Mission

The mission of Montana's Financial Institutions Division and the State Banking Board is to allocate, through quality management, available resources to implement effective regulatory programs for the institutions we regulate. Our primary focus is to ensure the continuance of safe and sound financial practices in state chartered banks. It follows that the financial services offered by these sound institutions should foster economic growth, and meet the public demand for these financial services in their communities. To accomplish this mission, the division and board are committed to the development of a work environment conducive to high productivity.

Responsibilities

The division accomplishes its responsibilities through several information gathering sources. However, the principal method is the periodic examination of each state chartered institution by field examiners. The result of an examination is a detailed analysis of an institution's condition. The examiner analyzes the capabilities of officers and directors; adequacy of the bank's policies, capital, earnings and liquidity; the quality of assets, asset/liability mix; and compliance with laws and regulations. The examination may indicate conditions ranging from banks with no problems, ones with potential problems, or to ones with severe and continuing problems. While the majority of Montana banks are financially sound, some do develop problems. Problems frequently encountered are large volumes of poor quality assets (usually loans), that become uncollectible and are a loss to the bank, poor earnings, an unstable or declining deposit base, inadequate capital or liquidity and internal control problems.

"Problem banks" usually exhibit an array of problem areas rather than one specific problem area. The early detection of problems within a bank enables the division to concentrate its resources most effectively to control or eliminate problems. In extreme cases the Commissioner has legal authority to initiate formal or informal actions such as board resolutions, memorandums of understanding, or cease and desist orders. These documents specify the banks problems, require corrective actions, and allow reasonable time for correction.

Institutions regulated and examined by the division include 127 state chartered banks and branches, 3 trust companies, 16 credit unions, 20 consumer loan companies, 86 sales finance companies and 5 private escrow companies. We presently have an authorized staff of 13 field examiners, 2 examiner supervisors, and an office staff of 5. The institutions regulated and examined by the division range from small and relatively uncomplicated institutions with assets of only a few million dollars, to large and highly sophisticated banks with assets in the 5 to 7 hundred million dollar range.

The division's authority to regulate banks extends only to state chartered banks. National banks are regulated by the Comptroller of the Currency. State chartered banks are composed of two groups, those which are members of the Federal Reserve System and those which are not. Membership in the Federal Reserve System is a

matter of choice for each state chartered bank. Member banks, in addition to state regulation and examination, are also subject to regulation and examination by the Federal Reserve System. Non-member banks are subject to examination by the FDIC and this division. The division may examine a bank independently or may be joined by examiners from the Federal Reserve or FDIC for a concurrent examination.

Authorization

Title 2-15-1803, MCA	Establishes the State Banking Board
Title 31-1-221-222, MCA	Licensing of sales finance companies
Title 32-1-202, MCA	Duties of State Banking Board
Title 32-1-211, MCA	Examination and supervision of banks and trust companies
Title 32-2-205, MCA	Chartering savings & loan associations
Title 32-2-301, MCA	Examination of savings & loan associations
Title 32-3-301, MCA	Chartering credit unions
Title 32-3-203, MCA	Examination of credit unions
Title 32-4-306, MCA	Examination of Development Corporations
Title 32-5-201, MCA	Licensing of consumer loan companies
Title 32-5-403, MCA	Examination of consumer loan companies
Title 32-7-109, MCA	Licensing of escrow companies
Title 32-7-108, MCA	Examination of escrow companies
Title 72-27-203, MCA	Reports on prearranged funeral plans
U.S.C. Sec.10 FDIC Act	FDIC Improvement Act requires less time between examinations

Amendments to House Bill No. 139
Third Reading Copy

Requested by Senator Lynch
For the Committee on Business and Industry

Prepared by Bart Campbell
March 2, 1993

1. Title, line 8.

Following: "INCURRED"

Strike: "OR"

Insert: ", "

Following: "SUFFERED"

Insert: ", OR CAUSED"

Following: "SURVEYORS"

Insert: "OR PERSONS UNDER THE LAND SURVEYORS' CONTROL;
DETERMINING LIABILITY FOR GOVERNING AUTHORITIES FOR DAMAGES
CAUSED OR SUFFERED BY LAND SURVEYORS OR PERSONS UNDER THE
LAND SURVEYORS' CONTROL; DETERMINING LIABILITY FOR PUBLIC
UTILITIES, MUNICIPAL CORPORATIONS, OR OTHER PERSONS HAVING
THE RIGHT TO BURY UNDERGROUND FACILITIES FOR DAMAGES
SUFFERED BY LAND SURVEYORS' OR PERSONS UNDER THE LAND
SURVEYORS' CONTROL"

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 5

DATE 3/4/93

BILL NO. HB 139

1993 SURVEY of 8,600 NFIB/MT MEMBERS
42% RETURN = 3,612 Responses

NAME RILEY JOHNSON

ADDRESS 491 SOUTH PARK AVE

HOME PHONE 443-5022 WORK PHONE 443-3797

REPRESENTING NATIONAL FEDERATION of INDEPENDENT BUSINESS

APPEARING ON WHICH PROPOSAL? SB-358

DO YOU: SUPPORT X OPPOSE AMEND

COMMENTS:

NFIB/MT, REPRESENTING 8,600 MONTANA SMALL
BUSINESS OWNERS, SURVEYED ITS MEMBERS IN 1989 ON
THE ISSUE OF BRANCH BANKING IN MONTANA. THE MEMBERS
OVERWHELMINGLY REJECTED BRANCH BANKING IN THAT
SURVEY. IN 1993, FACED WITH A SIMILAR ISSUE IN SB-358,
NFIB/MT AGAIN SURVEYED ITS MEMBERS AS PER THE ATTACHED
COPY OF THE SURVEY RESULTS. AS YOU CAN SEE, MONTANA'S
SMALL BUSINESS COMMUNITY SUPPORTS THE CONCEPTS OF
SB-358 BY NEARLY 60%. THE KEY TO THIS TURN
AROUND IN ATTITUDE WE FEEL IS THE PROSPECTS OF ECONOMIC
DEVELOPMENT THAT SB-358 COULD BRING TO OUR STATE... AND
CONSEQUENTLY TO A BETTER SMALL BUSINESS ECONOMY.
NFIB/MT SUPPORTS SB-358!

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Small agricultural corporations, with ten or fewer employees, particularly want this exemption because they have a \$20,000-per-payroll-quarter threshold. By including corporate officers in the assessment, the payroll threshold is frequently exceeded by small farms and ranches in Montana, thereby providing an added expense to doing business.

Proponents say unemployment insurance is something which smaller, closely held family corporations do not want and never use. Agricultural corporations argue that UI expenses can add dramatically to their costs. These proponents also say this proposal would be a positive step forward in improving the business climate in Montana.

Opponents say that such an exemption would have a substantial fiscal impact on the state's unemployment trust fund. In addition, they contend that enforcement of this exemption would be costly to the state's UI agency.

ENVIRONMENT

Federal vs. State Regulations

8. Should state agencies be prohibited from enacting environmental rules and regulations that would be more stringent than existing federal rules and regulations on the same subject?

☐ Yes ☐ No ☐ Undecided

'59.6' 31.9' 8.5' 23
Background: Environmental issues will be important small-business concerns in 1993 as Montana seeks to implement new federal laws

on air quality, water quality, and hazardous waste. Federal laws dictate certain requirements to small business, but state compliance laws can exceed federal regulations.

Proponents argue that state agencies, prodded by environmental activists, often set stricter standards than federal requirements, which are very expensive and burdensome to small businesses. They say this undermines the intent of the federal laws, particularly in a state such as Montana with limited resources. These proponents contend that while stricter state laws might be appropriate for major polluting states such as California, they are unnecessary and a kind of "overkill" in states such as Montana.

Opponents say federal standards do not address specific environmental issues that are unique to Montana. These opponents argue that Montana needs to protect its natural resources in order to prevent the state from becoming like the larger states that are now experiencing environmental crises.

GENERAL BUSINESS

9. Should legislation be passed that would allow out-of-state holding companies to acquire and/or open instate banks and operate them as branch banks?

☐ Yes ☐ No ☐ Undecided

'59.6' 31.9' 8.6' 24
Background: Currently, any holding company owning banks in Montana must be headquartered in the state. Out-of-state companies cannot own branch banks within the state. A bill that will be introduced in January

would change this system.

Proponents argue that Montana's banking system is antiquated. They say that opening Montana to out-of-state branch banking would provide more convenience and a variety of professional banking services to customers, particularly to small businesses in smaller communities.

In addition, proponents argue that branching could offer more sophisticated financing plans, additional sources of money, legal and accounting expertise, and newer types of related services, such as brokerage, insurance, and financial planning. They point out that these services are now available only to those customers who take their banking business out of local community banks.

Opponents argue that bigger banks are not necessarily better banks for local communities and small business. They claim that branching would give ultimate control of Montana banking to out-of-state interests, which could funnel Montana money to out-of-state investments. Opponents also contend that local personal banking relationships would be lost to small businesses, as emphasis was placed on higher-interest consumer loans and credit cards, instead of small-business loans.

Opponents also note that branching would open the door to consolidated corporate tax returns for out-of-state companies, which could reduce Montana revenue. In addition, they say this proposal would allow Norwest Banks and First Bank Systems to close their corporate headquarters in Billings and move them to Minneapolis, which would result in the loss of jobs.

COMMENTS

DATE March 4

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: HB 201, HB 358

Name	Representing	Bill No.	Check One Support Oppose	
RILEY JOHNSON	NFIB	358	X	
Steve Browning	Norwest Bank	358	X	
JOHN DELANO	MONT BANK SYSTEM		X	
Bill LEARY	Mt. Bankers Assn.	201 358	X	
Ed JASMIN	NORWEST BANK	201 358	X	
Roger Tippy	Mt Independent Bankers	201 358	X (And)	
JOE THARES	" " "	201 358	X X	
John Cadby	MT BANKERS ASSN	201 358	X X	
Goin Burnett	First Citizens BK Bldg	201 358	X X	
Bill Kregamer	1st Interstate Bank	201 358	X	
Sam Ellis	Norwest Banks	201 358	X	
Chris Olson	Dept of Commerce	201 358		
GENE PHILLIPS	1 ST INTERSTATE OF MT	358	X	
REX MANUEL	1 ST BANKS	358 201	X	
Larry Freshman	Bank of MT System		X	
MARY B CARLSON	Self	358 201	X	

PETER VAN NICE

Visitor Register Helen

358
201

X

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY