

SENATE BILL NO. 89  
INTRODUCED BY HAZELBAKER  
BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

January 12, 1979	Introduced and referred to Committee on Business and Industry.
January 22, 1979	Committee recommend bill do pass and be placed on Consent Calendar. Report adopted.
January 23, 1979	Printed and placed on members' desks.
January 24, 1979	Consent Calendar discussion.
January 25, 1979	Consent Calendar, do pass. Transmitted to Second House.

IN THE HOUSE

January 26, 1979	Introduced and referred to Committee on Business and Industry.
February 5, 1979	Committee recommend bill be concurred in. Report adopted.
February 6, 1979	Second Reading, concurred in.
February 8, 1979	Third Reading, concurred.

IN THE SENATE

February 9, 1979	Returned from Second House. Concurred in.  Sent to enrolling. Reported correctly enrolled.
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*Senate* BILL NO. 89  
*Hayden*

INTRODUCED BY \_\_\_\_\_  
BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO FINANCIAL INSTITUTIONS; AMENDING SECTIONS 32-1-424, 32-1-464, 32-1-465, 32-1-506, 32-1-534, 32-2-406, AND 32-3-611, MCA."

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

Section 1. Section 32-1-424, MCA, is amended to read:  
"32-1-424. Investments of financial institutions. (1) Trust and investment companies may lease, purchase, hold, and convey all such real or personal property ~~as may be~~ necessary to carry on their authorized business, as well as such real or personal property as the board of directors may ~~deem~~ considers necessary to acquire in the enforcement or settlement of any claims or demands arising out of business transactions and may execute and issue, in the transaction of their business, all necessary receipts, certificates, and contracts.

(2) The board of directors of any such corporation ~~is~~ authorized to ~~may~~ invest the capital and assets of said ~~the~~ corporation and keep the same invested in securities to be approved by the board, and ~~it shall be lawful for~~ the board

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to ~~may~~ make such investments of its capital and assets and of the funds accumulated by its business, including money, deposits, or any part thereof, in negotiable or nonnegotiable notes or bonds, mortgages on unencumbered real estate, stocks and bonds of corporations, or bonds and warrants of any county, city, town, or school district of this state or any other state of the United States legally authorized to issue the same, or bonds or obligations of the United States.

(3) Notwithstanding other provisions of the law, it ~~shall be~~ is lawful for any a bank, trust company, investment company and or other financial ~~institutions~~ institution operating under the laws of this state to invest the funds or ~~moneys~~ money in their ~~its~~ custody or possession, eligible for investment, ~~in bonds of the Home Owners' Loan Corporation~~ in debentures issued by the federal housing administrator and in obligations of ~~National Mortgage Associations~~ national mortgage associations."

Section 2. Section 32-1-464, MCA, is amended to read:  
"32-1-464. Fraud by director, officer, or employee. A director, officer, agent, or employee of a bank is guilty of a felony who if that person:

(1) knowingly receives or possesses himself of any of its property, otherwise than in payment for a just demand, and with intent to defraud:

1 (a) omits to make or to cause or direct to be made a  
2 full and true entry of it in its books and account; or

3 (b) concurs in omitting to make any material entry  
4 thereof;

5 (2) knowingly concurs in making or publishing any  
6 written report, exhibit, or statement of its affairs or  
7 pecuniary condition containing any material statement which  
8 is false; or

9 (3) having the custody or control of its books,  
10 willfully refuses or neglects to make a proper entry in the  
11 books of that corporation as required by law, to exhibit  
12 them, or allow them to be inspected and extracts to be taken  
13 from them by the department."

14 Section 3. Section 32-1-465, MCA, is amended to read:

15 "32-1-465. Overdraft by officer or employe: --  
16 receiving personal profit from loan. Any ~~an~~ officer,  
17 director, agent, teller, clerk, or employee of any a bank is  
18 guilty of a misdemeanor ~~when such~~ if that person either:

19 (1) knowingly overdraws his account with such bank and  
20 thereby obtains the money, notes, or funds of any such bank;  
21 or

22 (2) asks or receives, or consents or agrees to  
23 receive, any commission, any premium on insurance,  
24 emolument, gratuity, or reward, ~~or any~~ money, property, or  
25 thing of value for his own personal benefit or of personal

1 advantage for procuring or endeavoring to procure for any  
2 person, firm, or corporation any loan from or the purchase  
3 or discount of any paper, note, draft, check, or bill of  
4 exchange by such bank or for authorizing and permitting any  
5 person, firm, or corporation to overdraw any account with  
6 such bank."

7 Section 4. Section 32-1-506, MCA, is amended to read:

8 "32-1-506. Assessment on capital stock to make good  
9 impairment. (1) When the department determines that an  
10 impairment of capital exists in a bank, it may, in its  
11 discretion, notify the board of directors of the bank by  
12 written notice that the impairment exists, stating the  
13 amount thereof in dollars and percentage of the capital  
14 stock, and it may, in its discretion, order the board to  
15 make good the impairment within 90 days from date of the  
16 notice.

17 (2) The board of directors shall, upon receipt of  
18 notice, convene and pass a resolution reciting the receipt  
19 of the notice of impairment and calling a special meeting of  
20 the stockholders of the bank in the manner provided in their  
21 bylaws.

22 (3) The stockholders at the meeting shall pass a  
23 resolution reciting the facts of receipt of notice from the  
24 department, notice of impairment, and notice of meeting and  
25 assessing themselves by assessing the stock of record,

1 payment of which assessment must be made within the time  
2 limit specified by the department as provided in notice of  
3 impairment.

4 (4) If there is any stock remaining on which the  
5 assessment is not paid as provided in this section, it or a  
6 part of it as is necessary to pay the assessment shall be  
7 sold by the board of directors, acting through the cashier  
8 or secretary of the bank, at public or private sale, as  
9 appears best for all concerned, not less than 30 days after  
10 the day fixed for payment of assessment. Notice of the time  
11 and place of the sale shall be given by certified or  
12 registered mail to the stockholders by the board through its  
13 cashier or secretary at least 10 days prior to the sale. A  
14 sale of stock as provided in this section causes an absolute  
15 cancellation of the outstanding certificate or certificates  
16 evidencing the stock so sold and makes them void in the  
17 hands of the stockholders or his assigns or pledgees. A new  
18 certificate shall be issued by the bank to the purchaser for  
19 the number of shares purchased and a new certificate issued  
20 to the stockholder of record and delivered to him or any  
21 pledgee or assignee of the stock for the remaining shares,  
22 if any. The record of the original certificate sold shall  
23 be marked canceled on the books of the bank, and that record  
24 is prima facie evidence of the regularity of the proceedings  
25 for the sale of the stock.

1 (5) If a bank fails to make good its capital  
2 impairment upon demand of the department, as provided in  
3 this section, the department may immediately take charge of  
4 that bank and proceed to liquidate it as in case of  
5 insolvency.

6 (6) If the stock does not sell for enough to pay the  
7 assessment on it, the board of directors may sue in the name  
8 of the corporation to collect the deficiency from the record  
9 holder stockholder of record whose stock has been sold for  
10 the assessment."

11 Section 5. Section 32-1-534, MCA, is amended to read:  
12 "32-1-534. Claims -- order of payment -- priorities.  
13 (1) Except as otherwise provided by the Uniform Commercial  
14 Code, the order of payment of the debts of a bank liquidated  
15 by the department shall be as follows:

16 (a) the expense of liquidation, including compensation  
17 of agents, employees, and attorneys;

18 (b) all funds of any other bank in process of  
19 liquidation by the department and placed on deposit by the  
20 department;

21 (c) all funds held by the bank in trust;

22 (d) debts due depositors, holders of cashier's checks,  
23 certified checks, contractual liabilities, and drafts on  
24 correspondent banks, including protest fees, paid by them on  
25 valid checks or drafts presented after closing of the bank,

1 pro rata. All deposit balances of other banks or trust  
 2 companies and all deposits of public funds of every kind  
 3 (except those actually placed on special deposit under the  
 4 statutes providing therefor), including those of the United  
 5 States, the state of Montana, and every county, district,  
 6 municipality, political subdivision, or public corporation  
 7 of this state, whether secured or unsecured or whether  
 8 deposited in violation of law or otherwise, are included  
 9 within the terms of this subsection (1)(d) and take the same  
 10 priority as debts due any other depositor. ~~All--contractual~~  
 11 ~~liabilities--pro-rata~~ Accrued interest on savings accounts,  
 12 certificates of deposit, or other interest-bearing  
 13 contracts, up to the time of the closing of the bank, shall  
 14 be considered as part of the debt due.

15 (e) interest on the classes of claims contained in  
 16 subsections (1)(a) through (1)(d) of this section without  
 17 regard to the priority computed from the date of closing of  
 18 the bank at the rate of 7% a year;

19 (f) unliquidated claims for damages and similar  
 20 claims, including claims of stockholders for amounts claimed  
 21 to have been voluntarily advanced to the bank or paid in by  
 22 way of special or voluntary or other assessments.

23 (2) The department may, in its discretion, without  
 24 regard to the priorities fixed in subsections (1)(c) through  
 25 (1)(f) of this section or in preference to the payment of

1 any claims of creditors within these subsections, pay off  
 2 and discharge any lien, claim, or charge against the assets  
 3 or property of the bank in its hands and pay those sums it  
 4 considers necessary for the preservation, maintenance,  
 5 conservation, and protection of those assets and property  
 6 and likewise property on which the bank has liens by  
 7 mortgage or otherwise. It may also, in its discretion,  
 8 create a fund or retain in its hands, in preference to the  
 9 claim of any creditors in subsections (1)(c) through (1)(f),  
 10 ~~moneys money~~ for those purposes.

11 (3) Collateral ~~which that~~ has been put up or pledged  
 12 as security for the payment of bills payable by a bank or  
 13 loans or discounts ~~which that~~ have been outstanding as  
 14 rediscounts of a bank prior to the closing of it is not  
 15 available to the other creditors of the bank in whole or in  
 16 part until the bills payable or rediscounts have been  
 17 retired, after which offsets as provided in this section  
 18 shall be allowed.

19 (4) Deposits of a person, firm, or corporation in a  
 20 bank which is in the possession of the department may be  
 21 offset against any indebtedness (subject to the conditions  
 22 of subsection (3) of this section), except assessments on  
 23 stock, due to the bank from that person, firm, or  
 24 corporation. All dividends when declared in favor of a  
 25 creditor of the bank may be applied, in the discretion of

1 the department, in satisfaction of the indebtedness, if any,  
2 due the bank from the creditor."

3 Section 6. Section 32-2-406, MCA, is amended to read:

4 "32-2-406. Investments. (1) A building and loan  
5 association may invest the money of the association in:

6 (a) the bonds and securities of the United States,  
7 bonds and other obligations guaranteed as to interest and  
8 principal by the United States, and the stocks, bonds,  
9 debentures, and other securities and obligations of any  
10 federal home loan bank created under the laws of the United  
11 States;

12 (b) the bonds and warrants of any state and of any  
13 county, city, or school district of the state of Montana;

14 (c) the obligations of the federal savings and loan  
15 insurance corporation lawfully issued pursuant to Title IV  
16 of the National Housing Act;

17 (d) improved real estate which has been sold under  
18 contract, including suburban homes but not including farm  
19 lands or mining property. However, the total amount  
20 remaining so invested, excluding real estate otherwise  
21 acquired, shall at no time ~~may not~~ exceed 15% of its assets.  
22 The amount so invested may not exceed 85% of the price  
23 stipulated in the contract of sale or 85% of the value of  
24 the property so purchased, whichever is the lesser.

25 (e) other bonds and securities, not to exceed 10% of

1 the association assets.

2 (2) Not over 10% of the assets of an association may  
3 be invested in home office buildings, furniture, and  
4 fixtures. Other real property acquired in any manner or for  
5 any purpose may not be held for more than 5 years, except by  
6 permission of the department.

7 (3) Notwithstanding other provisions of the law, it  
8 shall ~~be~~ is lawful for any a building and loan association  
9 and ~~or~~ other financial institution operating under the laws  
10 of this state to invest the funds or moneys ~~money~~ in their  
11 its custody or possession, eligible for investment, in bonds  
12 ~~of the Home Owners' Loan Corporation,~~ in debentures issued  
13 by the federal housing administratory and in obligations of  
14 ~~National Mortgage Associations~~ national mortgage  
15 associations."

16 Section 7. Section 32-3-611, MCA, is amended to read:

17 "32-3-611. Share insurance. (1) ~~Not later than January~~  
18 ~~1, 1976, each credit union shall apply for insurance on~~  
19 ~~share accounts under the provisions of Title II of the~~  
20 ~~Federal Credit Union Act. A credit union which has been~~  
21 ~~denied a commitment for insurance of its share accounts~~  
22 ~~shall either dissolve, merge with another credit union which~~  
23 ~~is insured under Title II of the Federal Credit Union Act,~~  
24 ~~or apply in writing within 30 days of denial to the director~~  
25 ~~of the department of business regulation for additional time~~

1 ~~to obtain an insurance commitment.~~ Each credit union shall  
2 maintain insurance on its share accounts under the  
3 provisions of Title II of the Federal Credit Union Act.

4 (2) ~~The director of the department of business~~  
5 ~~regulation shall grant additional time for the credit union~~  
6 ~~to obtain the insurance commitment upon satisfactory~~  
7 ~~evidence that the credit union has made or is making a~~  
8 ~~substantial effort to achieve the conditions precedent to~~  
9 ~~issuance of the commitment. Additional time or times shall~~  
10 ~~not extend later than January 1, 1976. No credit union may~~  
11 begin operation or transact any business until proof that it  
12 has obtained insurance under the provisions of Title II of  
13 the Federal Credit Union Act has been furnished to the  
14 director of the department of business regulation.

15 (3) A credit union operating in violation of this  
16 section is subject to an order of suspension as provided for  
17 in 32-3-205.

18 (3)(4) The director of the department of business  
19 regulation shall make available reports of condition and  
20 examination reports to the administrator of the national  
21 credit union administration and may accept any report of  
22 examination made on behalf of such administrators. The  
23 director may appoint the administrator of the national  
24 credit union administration as liquidating agent of an  
25 insured credit union."

Approved by Committee on Business and Industry

1 Spencer BILL NO. 89  
2 INTRODUCED BY Spencer  
3 BY REQUEST OF THE CODE COMMISSIONER

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
6 CLARIFY THE LAW RELATING TO FINANCIAL INSTITUTIONS; AMENDING  
7 SECTIONS 32-1-424, 32-1-464, 32-1-465, 32-1-506, 32-1-534,  
8 32-2-406, AND 32-3-611, MCA."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 32-1-424, MCA, is amended to read:

12 "32-1-424. Investments of financial institutions. (1)  
13 Trust and investment companies may lease, purchase, hold,  
14 and convey all such real or personal property ~~as may be~~  
15 necessary to carry on their authorized business, as well as  
16 such real or personal property as the board of directors may  
17 deem considers necessary to acquire in the enforcement or  
18 settlement of any claims or demands arising out of business  
19 transactions and may execute and issue, in the transaction  
20 of their business, all necessary receipts, certificates, and  
21 contracts.

22 (2) The board of directors of any such corporation ~~is~~  
23 ~~authorized to~~ may invest the capital and assets of said ~~the~~  
24 corporation and keep the same invested in securities to be  
25 approved by the board, and ~~it shall be lawful for~~ the board

1 to ~~may~~ make such investments of its capital and assets and  
2 of the funds accumulated by its business, including money,  
3 deposits, or any part thereof, in negotiable or  
4 nonnegotiable notes or bonds, mortgages on unencumbered real  
5 estate, stocks and bonds of corporations, or bonds and  
6 warrants of any county, city, town, or school district of  
7 this state or any other state of the United States legally  
8 authorized to issue the same, or bonds or obligations of the  
9 United States.

10 (3) Notwithstanding other provisions of the law, it  
11 ~~shall be~~ is lawful for any ~~a~~ bank, trust company, investment  
12 company and ~~or~~ other financial institutions institution  
13 operating under the laws of this state to invest the funds  
14 or moneys ~~money~~ in their ~~its~~ custody or possession, eligible  
15 for investment, ~~in bonds of the Home Owners Loan~~  
16 ~~Corporation~~ in debentures issued by the federal housing  
17 administrator and in obligations of ~~National Mortgage~~  
18 Associations national mortgage associations.

19 Section 2. Section 32-1-464, MCA, is amended to read:

20 "32-1-464. Fraud by director, officer, or employee. A  
21 director, officer, agent, or employee of a bank is guilty of  
22 a felony who if that person:

23 (1) knowingly receives or possesses himself of any of  
24 its property, otherwise than in payment for a just demand,  
25 and with intent to defraud:



1 (a) omits to make or to cause or direct to be made a  
2 full and true entry of it in its books and account; or

3 (b) concurs in omitting to make any material entry  
4 thereof;

5 (2) knowingly concurs in making or publishing any  
6 written report, exhibit, or statement of its affairs or  
7 pecuniary condition containing any material statement which  
8 is false; or

9 (3) having the custody or control of its books,  
10 willfully refuses or neglects to make a proper entry in the  
11 books of that corporation as required by law, to exhibit  
12 them, or allow them to be inspected and extracts to be taken  
13 from them by the department."

14 Section 3. Section 32-1-465, MCA, is amended to read:

15 "32-1-465. Overdraft by officer or employee —  
16 receiving personal profit from loan. Any ~~an~~ officer,  
17 director, agent, teller, clerk, or employee of any ~~a~~ bank is  
18 guilty of a misdemeanor when ~~such~~ if that person either:

19 (1) knowingly overdraws his account with such bank and  
20 thereby obtains the money, notes, or funds of any such bank;  
21 or

22 (2) asks or receives, or consents or agrees to  
23 receive, any commission, any premium on insurance,  
24 emolument, gratuity, or reward, ~~or any~~ money, property, or  
25 thing of value for his own personal benefit or of personal

1 advantage for procuring or endeavoring to procure for any  
2 person, firm, or corporation any loan from or the purchase  
3 or discount of any paper, note, draft, check, or bill of  
4 exchange by such bank or for authorizing and permitting any  
5 person, firm, or corporation to overdraw any account with  
6 such bank."

7 Section 4. Section 32-1-506, MCA, is amended to read:

8 "32-1-506. Assessment on capital stock to make good  
9 impairment. (1) When the department determines that an  
10 impairment of capital exists in a bank, it may, in its  
11 discretion, notify the board of directors of the bank by  
12 written notice that the impairment exists, stating the  
13 amount thereof in dollars and percentage of the capital  
14 stock, and it may, in its discretion, order the board to  
15 make good the impairment within 90 days from date of the  
16 notice.

17 (2) The board of directors shall, upon receipt of  
18 notice, convene and pass a resolution reciting the receipt  
19 of the notice of impairment and calling a special meeting of  
20 the stockholders of the bank in the manner provided in their  
21 bylaws.

22 (3) The stockholders at the meeting shall pass a  
23 resolution reciting the facts of receipt of notice from the  
24 department, notice of impairment, and notice of meeting and  
25 assessing themselves by assessing the stock of record,

1 payment of which assessment must be made within the time  
2 limit specified by the department as provided in notice of  
3 impairment.

4 (4) If there is any stock remaining on which the  
5 assessment is not paid as provided in this section, it or a  
6 part of it as is necessary to pay the assessment shall be  
7 sold by the board of directors, acting through the cashier  
8 or secretary of the bank, at public or private sale, as  
9 appears best for all concerned, not less than 30 days after  
10 the day fixed for payment of assessment. Notice of the time  
11 and place of the sale shall be given by certified or  
12 registered mail to the stockholders by the board through its  
13 cashier or secretary at least 10 days prior to the sale. A  
14 sale of stock as provided in this section causes an absolute  
15 cancellation of the outstanding certificate or certificates  
16 evidencing the stock so sold and makes them void in the  
17 hands of the stockholders or his assigns or pledgees. A new  
18 certificate shall be issued by the bank to the purchaser for  
19 the number of shares purchased and a new certificate issued  
20 to the stockholder of record and delivered to him or any  
21 pledgee or assignee of the stock for the remaining shares,  
22 if any. The record of the original certificate sold shall  
23 be marked canceled on the books of the bank, and that record  
24 is prima facie evidence of the regularity of the proceedings  
25 for the sale of the stock.

1 (5) If a bank fails to make good its capital  
2 impairment upon demand of the department, as provided in  
3 this section, the department may immediately take charge of  
4 that bank and proceed to liquidate it as in case of  
5 insolvency.

6 (6) If the stock does not sell for enough to pay the  
7 assessment on it, the board of directors may sue in the name  
8 of the corporation to collect the deficiency from the record  
9 holder ~~stockholder of record~~ whose stock has been sold for  
10 the assessment."

11 Section 5. Section 32-1-534, MCA, is amended to read:  
12 "32-1-534. Claims -- order of payment -- priorities.

13 (1) Except as otherwise provided by the Uniform Commercial  
14 Code, the order of payment of the debts of a bank liquidated  
15 by the department shall be as follows:

16 (a) the expense of liquidation, including compensation  
17 of agents, employees, and attorneys;

18 (b) all funds of any other bank in process of  
19 liquidation by the department and placed on deposit by the  
20 department;

21 (c) all funds held by the bank in trust;

22 (d) debts due depositors, holders of cashier's checks,  
23 certified checks, contractual liabilities, and drafts on  
24 correspondent banks, including protest fees, paid by them on  
25 valid checks or drafts presented after closing of the bank,

1 pro rata. All deposit balances of other banks or trust  
 2 companies and all deposits of public funds of every kind  
 3 (except those actually placed on special deposit under the  
 4 statutes providing therefor), including those of the United  
 5 States, the state of Montana, and every county, district,  
 6 municipality, political subdivision, or public corporation  
 7 of this state, whether secured or unsecured or whether  
 8 deposited in violation of law or otherwise, are included  
 9 within the terms of this subsection (1)(d) and take the same  
 10 priority as debts due any other depositor. ~~All--contractual~~  
 11 ~~liabilities--pro-rata~~ Accrued interest on savings accounts,  
 12 certificates of deposit, or other interest-bearing  
 13 contracts, up to the time of the closing of the bank, shall  
 14 be considered as part of the debt due.

15 (e) Interest on the classes of claims contained in  
 16 subsections (1)(a) through (1)(d) of this section without  
 17 regard to the priority computed from the date of closing of  
 18 the bank at the rate of 7% a year;

19 (f) Unliquidated claims for damages and similar  
 20 claims, including claims of stockholders for amounts claimed  
 21 to have been voluntarily advanced to the bank or paid in by  
 22 way of special or voluntary or other assessments.

23 (2) The department may, in its discretion, without  
 24 regard to the priorities fixed in subsections (1)(c) through  
 25 (1)(f) of this section or in preference to the payment of

1 any claims of creditors within these subsections, pay off  
 2 and discharge any lien, claim, or charge against the assets  
 3 or property of the bank in its hands and pay those sums it  
 4 considers necessary for the preservation, maintenance,  
 5 conservation, and protection of those assets and property  
 6 and likewise property on which the bank has liens by  
 7 mortgage or otherwise. It may also, in its discretion,  
 8 create a fund or retain in its hands, in preference to the  
 9 claim of any creditors in subsections (1)(c) through (1)(f),  
 10 moneys ~~money~~ for those purposes.

11 (3) Collateral which ~~that~~ has been put up or pledged  
 12 as security for the payment of bills payable by a bank, or  
 13 loans or discounts which ~~that~~ have been outstanding as  
 14 rediscounts of a bank prior to the closing of it, is not  
 15 available to the other creditors of the bank in whole or in  
 16 part until the bills payable or rediscounts have been  
 17 retired, after which offsets as provided in this section  
 18 shall be allowed.

19 (4) Deposits of a person, firm, or corporation in a  
 20 bank which is in the possession of the department may be  
 21 offset against any indebtedness (subject to the conditions  
 22 of subsection (3) of this section), except assessments on  
 23 stock, due to the bank from that person, firm, or  
 24 corporation. All dividends when declared in favor of a  
 25 creditor of the bank may be applied, in the discretion of

1 the department, in satisfaction of the indebtedness, if any,  
2 due the bank from the creditor."

3 Section 6. Section 32-Z-406, MCA, is amended to read:  
4 "32-2-406. Investments. (1) A building and loan  
5 association may invest the money of the association in:

6 (a) the bonds and securities of the United States,  
7 bonds and other obligations guaranteed as to interest and  
8 principal by the United States, and the stocks, bonds,  
9 debentures, and other securities and obligations of any  
10 federal home loan bank created under the laws of the United  
11 States;

12 (b) the bonds and warrants of any state and of any  
13 county, city, or school district of the state of Montana;

14 (c) the obligations of the federal savings and loan  
15 insurance corporation lawfully issued pursuant to Title IV  
16 of the National Housing Act;

17 (d) improved real estate which has been sold under  
18 contract, including suburban homes but not including farm  
19 lands or mining property. However, the total amount  
20 remaining so invested, excluding real estate otherwise  
21 acquired, ~~shall at no time~~ may not exceed 15% of its assets.  
22 The amount so invested may not exceed 85% of the price  
23 stipulated in the contract of sale or 85% of the value of  
24 the property so purchased, whichever is the less; and

25 (e) other bonds and securities, not to exceed 10% of

1 the association assets.

2 (2) Not over 10% of the assets of an association may  
3 be invested in home office buildings, furniture, and  
4 fixtures. Other real property acquired in any manner or for  
5 any purpose may not be held for more than 5 years, except by  
6 permission of the department.

7 (3) Notwithstanding other provisions of the law, it  
8 ~~shall be~~ is lawful for any a building and loan association  
9 ~~and or~~ other financial institution operating under the laws  
10 of this state to invest the funds or moneys ~~money~~ in their  
11 its custody or possession, eligible for investment, in bonds  
12 ~~of the Home Owners' Loan Corporation,~~ in debentures issued  
13 by the federal housing administrator, and in obligations of  
14 ~~National Mortgage Associations~~ national mortgage  
15 associations."

16 Section 7. Section 32-3-611, MCA, is amended to read:

17 "32-3-611. Share insurance. (1) ~~Not later than January~~  
18 ~~1976, each credit union shall apply for insurance on~~  
19 ~~share accounts under the provisions of Title II of the~~  
20 ~~Federal Credit Union Act. A credit union which has been~~  
21 ~~denied a commitment for insurance of its share accounts~~  
22 ~~shall either dissolve, merge with another credit union which~~  
23 ~~is insured under Title II of the Federal Credit Union Act~~  
24 ~~or apply in writing within 30 days of denial to the director~~  
25 ~~of the department of business regulation for additional time~~

1 ~~to obtain an insurance commitment.~~ Each credit union shall  
2 maintain insurance on its share accounts under the  
3 provisions of Title II of the Federal Credit Union Act.

4 ~~(2) The director of the department of business~~  
5 ~~regulation shall grant additional time for the credit union~~  
6 ~~to obtain the insurance commitment upon satisfactory~~  
7 ~~evidence that the credit union has made or is making a~~  
8 ~~substantial effort to achieve the conditions precedent to~~  
9 ~~issuance of the commitment. Additional time or times shall~~  
10 ~~not extend later than January 1, 1970. No credit union may~~  
11 begin operation or transact any business until proof that it  
12 has obtained insurance under the provisions of Title II of  
13 the Federal Credit Union Act has been furnished to the  
14 director of the department of business regulation.

15 ~~(3) A credit union operating in violation of this~~  
16 ~~section is subject to an order of suspension as provided for~~  
17 in 32-3-205.

18 ~~(4)~~ (4) The director of the department of business  
19 regulation shall make available reports of condition and  
20 examination reports to the administrator of the national  
21 credit union administration and may accept any report of  
22 examination made on behalf of such administrators. The  
23 director may appoint the administrator of the national  
24 credit union administration as liquidating agent of an  
25 insured credit union."

## 1 SENATE BILL NO. 89

2 INTRODUCED BY HAZELBAKER

3 BY REQUEST OF THE CODE COMMISSIONER

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
6 CLARIFY THE LAW RELATING TO FINANCIAL INSTITUTIONS; AMENDING  
7 SECTIONS 32-1-424, 32-1-464, 32-1-465, 32-1-506, 32-1-534,  
8 32-2-406, AND 32-3-611, MCA."  
9

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

11 Section 1. Section 32-1-424, MCA, is amended to read:

12 "32-1-424. Investments of financial institutions. (1)  
13 Trust and investment companies may lease, purchase, hold,  
14 and convey all such real or personal property as--may--be  
15 necessary to carry on their authorized business, as well as  
16 such real or personal property as the board of directors may  
17 deem ~~considers~~ necessary to acquire in the enforcement or  
18 settlement of any claims or demands arising out of business  
19 transactions and may execute and issue, in the transaction  
20 of their business, all necessary receipts, certificates, and  
21 contracts.

22 (2) The board of directors of any such corporation ~~is~~  
23 ~~authorized to~~ may invest the capital and assets of said ~~the~~  
24 corporation and keep the same invested in securities to be  
25 approved by the board, and ~~it shall be lawful for~~ the board

1 to ~~may~~ make such investments of its capital and assets and  
2 of the funds accumulated by its business, including money,  
3 deposits, or any part thereof, in negotiable or  
4 nonnegotiable notes or bonds, mortgages on unencumbered real  
5 estate, stocks and bonds of corporations, or bonds and  
6 warrants of any county, city, town, or school district of  
7 this state or any other state of the United States legally  
8 authorized to issue the same, or bonds or obligations of the  
9 United States.

10 (3) Notwithstanding other provisions of the law, it  
11 ~~shall be~~ is lawful for any a bank, trust company, investment  
12 company and ~~or~~ other financial institutions ~~institution~~  
13 operating under the laws of this state to invest the funds  
14 or moneys ~~money~~ in their ~~its~~ custody or possession, eligible  
15 for investment, ~~in--bonds--of--the---Home---Owners^---loan~~  
16 ~~Corporations~~ in debentures issued by the federal housing  
17 administrator and in obligations of National--Mortgage  
18 Associations national mortgage associations."

19 Section 2. Section 32-1-464, MCA, is amended to read:

20 "32-1-464. Fraud by director, officer, or employee. A  
21 director, officer, agent, or employee of a bank is guilty of  
22 a felony who ~~if that person~~:

23 (1) knowingly receives or possesses himself of any of  
24 its property, otherwise than in payment for a just demand,  
25 and with intent to defraud:

1 (a) omits to make or to cause or direct to be made a  
2 full and true entry of it in its books and account; or

3 (b) concurs in omitting to make any material entry  
4 thereof;

5 (2) knowingly concurs in making or publishing any  
6 written report, exhibit, or statement of its affairs or  
7 pecuniary condition containing any material statement which  
8 is false; or

9 (3) having the custody or control of its books,  
10 willfully refuses or neglects to make a proper entry in the  
11 books of that corporation as required by law, to exhibit  
12 them, or allow them to be inspected and extracts to be taken  
13 from them by the department."

14 Section 3. Section 32-1-465, MCA, is amended to read:

15 "32-1-465. Overdraft by officer or employee --  
16 receiving personal profit from loan. Any ~~an~~ officer,  
17 director, agent, teller, clerk, or employee of any ~~a~~ bank is  
18 guilty of a misdemeanor when ~~such~~ if that person either:

19 (1) knowingly overdraws his account with such bank and  
20 thereby obtains the money, notes, or funds of any such bank;  
21 or

22 (2) asks or receives, or consents or agrees to  
23 receive, any commission, any premium on insurance,  
24 emolument, gratuity, or reward, ~~or any~~ money, property, or  
25 thing of value for his own personal benefit or of personal

1 advantage for procuring or endeavoring to procure for any  
2 person, firm, or corporation any loan from or the purchase  
3 or discount of any paper, note, draft, check, or bill of  
4 exchange by such bank or for authorizing and permitting any  
5 person, firm, or corporation to overdraw any account with  
6 such bank."

7 Section 4. Section 32-1-506, MCA, is amended to read:

8 "32-1-506. Assessment on capital stock to make good  
9 impairment. (1) When the department determines that an  
10 impairment of capital exists in a bank, it may, in its  
11 discretion, notify the board of directors of the bank by  
12 written notice that the impairment exists, stating the  
13 amount thereof in dollars and percentage of the capital  
14 stock, and it may, in its discretion, order the board to  
15 make good the impairment within 90 days from date of the  
16 notice.

17 (2) The board of directors shall, upon receipt of  
18 notice, convene and pass a resolution reciting the receipt  
19 of the notice of impairment and calling a special meeting of  
20 the stockholders of the bank in the manner provided in their  
21 bylaws.

22 (3) The stockholders at the meeting shall pass a  
23 resolution reciting the facts of receipt of notice from the  
24 department, notice of impairment, and notice of meeting and  
25 assessing themselves by assessing the stock of record,

1 payment of which assessment must be made within the time  
2 limit specified by the department as provided in notice of  
3 impairment.

4 (4) If there is any stock remaining on which the  
5 assessment is not paid as provided in this section, it or a  
6 part of it as is necessary to pay the assessment shall be  
7 sold by the board of directors, acting through the cashier  
8 or secretary of the bank, at public or private sale, as  
9 appears best for all concerned, not less than 30 days after  
10 the day fixed for payment of assessment. Notice of the time  
11 and place of the sale shall be given by certified or  
12 registered mail to the stockholders by the board through its  
13 cashier or secretary at least 10 days prior to the sale. A  
14 sale of stock as provided in this section causes an absolute  
15 cancellation of the outstanding certificate or certificates  
16 evidencing the stock so sold and makes them void in the  
17 hands of the stockholders or his assigns or pledgees. A new  
18 certificate shall be issued by the bank to the purchaser for  
19 the number of shares purchased and a new certificate issued  
20 to the stockholder of record and delivered to him or any  
21 pledgee or assignee of the stock for the remaining shares,  
22 if any. The record of the original certificate sold shall  
23 be marked canceled on the books of the bank, and that record  
24 is prima facie evidence of the regularity of the proceedings  
25 for the sale of the stock.

1 (5) If a bank fails to make good its capital  
2 impairment upon demand of the department, as provided in  
3 this section, the department may immediately take charge of  
4 that bank and proceed to liquidate it as in case of  
5 insolvency.

6 (6) If the stock does not sell for enough to pay the  
7 assessment on it, the board of directors may sue in the name  
8 of the corporation to collect the deficiency from the record  
9 holder stockholder of record whose stock has been sold for  
10 the assessment."

11 Section 5. Section 32-1-534, MCA, is amended to read:  
12 "32-1-534. Claims -- order of payment -- priorities.

13 (1) Except as otherwise provided by the Uniform Commercial  
14 Code, the order of payment of the debts of a bank liquidated  
15 by the department shall be as follows:

16 (a) the expense of liquidation, including compensation  
17 of agents, employees, and attorneys;

18 (b) all funds of any other bank in process of  
19 liquidation by the department and placed on deposit by the  
20 department;

21 (c) all funds held by the bank in trust;

22 (d) debts due depositors, holders of cashier's checks,  
23 certified checks, contractual liabilities, and drafts on  
24 correspondent banks, including protest fees, paid by them on  
25 valid checks or drafts presented after closing of the bank,



1 pro rata. All deposit balances of other banks or trust  
 2 companies and all deposits of public funds of every kind  
 3 (except those actually placed on special deposit under the  
 4 statutes providing therefor), including those of the United  
 5 States, the state of Montana, and every county, district,  
 6 municipality, political subdivision, or public corporation  
 7 of this state, whether secured or unsecured or whether  
 8 deposited in violation of law or otherwise, are included  
 9 within the terms of this subsection (1)(d) and take the same  
 10 priority as debts due any other depositor. ~~All contract~~  
 11 ~~liabilities-pre-reev~~ Accrued interest on savings accounts,  
 12 certificates of deposit, or other interest-bearing  
 13 contracts, up to the time of the closing of the bank, shall  
 14 be considered as part of the debt due.

15 (e) interest on the classes of claims contained in  
 16 subsections (1)(a) through (1)(d) of this section without  
 17 regard to the priority computed from the date of closing of  
 18 the bank at the rate of 7% a year;

19 (f) unliquidated claims for damages and similar  
 20 claims, including claims of stockholders for amounts claimed  
 21 to have been voluntarily advanced to the bank or paid in by  
 22 way of special or voluntary or other assessments.

23 (2) The department may, in its discretion, without  
 24 regard to the priorities fixed in subsections (1)(c) through  
 25 (1)(f) of this section or in preference to the payment of

1 any claims of creditors within these subsections, pay off  
 2 and discharge any lien, claim, or charge against the assets  
 3 or property of the bank in its hands and pay those sums it  
 4 considers necessary for the preservation, maintenance,  
 5 conservation, and protection of those assets and property  
 6 and likewise property on which the bank has liens by  
 7 mortgage or otherwise. It may also, in its discretion,  
 8 create a fund or retain in its hands, in preference to the  
 9 claim of any creditors in subsections (1)(c) through (1)(f),  
 10 moneys ~~money~~ for those purposes.

11 (3) Collateral which ~~that~~ has been put up or pledged  
 12 as security for the payment of bills payable by a bank or  
 13 loans or discounts which ~~that~~ have been outstanding as  
 14 rediscounts of a bank prior to the closing of it is not  
 15 available to the other creditors of the bank in whole or in  
 16 part until the bills payable or rediscounts have been  
 17 retired, after which offsets as provided in this section  
 18 shall be allowed.

19 (4) Deposits of a person, firm, or corporation in a  
 20 bank which is in the possession of the department may be  
 21 offset against any indebtedness (subject to the conditions  
 22 of subsection (3) of this section), except assessments on  
 23 stock, due to the bank from that person, firm, or  
 24 corporation. All dividends when declared in favor of a  
 25 creditor of the bank may be applied, in the discretion of

1 the department, in satisfaction of the indebtedness, if any,  
2 due the bank from the creditor."

3 Section 6. Section 32-2-406, MCA, is amended to read:

4 "32-2-406. Investments. (1) A building and loan  
5 association may invest the money of the association in:

6 (a) the bonds and securities of the United States,  
7 bonds and other obligations guaranteed as to interest and  
8 principal by the United States, and the stocks, bonds,  
9 debentures, and other securities and obligations of any  
10 federal home loan bank created under the laws of the United  
11 States;

12 (b) the bonds and warrants of any state and of any  
13 county, city, or school district of the state of Montana;

14 (c) the obligations of the federal savings and loan  
15 insurance corporation lawfully issued pursuant to Title IV  
16 of the National Housing Act;

17 (d) improved real estate which has been sold under  
18 contract, including suburban homes but not including farm  
19 lands or mining property. However, the total amount  
20 remaining so invested, excluding real estate otherwise  
21 acquired, shall at no time ~~may not~~ exceed 15% of its assets.  
22 The amount so invested may not exceed 85% of the price  
23 stipulated in the contract of sale or 85% of the value of  
24 the property so purchased, whichever is the lesser.

25 (e) other bonds and securities, not to exceed 10% of

1 the association assets.

2 (2) Not over 10% of the assets of an association may  
3 be invested in home office buildings, furniture, and  
4 fixtures. Other real property acquired in any manner or for  
5 any purpose may not be held for more than 5 years, except by  
6 permission of the department.

7 (3) Notwithstanding other provisions of the law, it  
8 shall be ~~is~~ lawful for any a building and loan association  
9 and ~~or~~ other financial institution operating under the laws  
10 of this state to invest the funds or moneys ~~money~~ in their  
11 ~~its~~ custody or possession, eligible for investment, ~~in bonds~~  
12 ~~of the Home Owners Loan Corporation~~ in debentures issued  
13 by the federal housing administrator, and in obligations of  
14 ~~National Mortgage Associations~~ national mortgage  
15 associations."

16 Section 7. Section 32-3-611, MCA, is amended to read:

17 "32-3-611. Share insurance. (1) ~~Not later than January~~  
18 ~~1, 1976, each credit union shall apply for insurance on~~  
19 ~~share accounts under the provisions of Title 11 of the~~  
20 ~~Federal Credit Union Act. A credit union which has been~~  
21 ~~denied a commitment for insurance of its share accounts~~  
22 ~~shall either dissolve, merge with another credit union which~~  
23 ~~is insured under Title 11 of the Federal Credit Union Act,~~  
24 ~~or apply in writing within 30 days of denial to the director~~  
25 ~~of the department of business regulation for additional time~~

1 ~~to obtain an insurance commitment. Each credit union shall~~  
 2 ~~maintain insurance on its share accounts under the~~  
 3 ~~provisions of Title II of the Federal Credit Union Act.~~

-End-

4 ~~(2) The director of the department of business~~  
 5 ~~regulation shall grant additional time for the credit union~~  
 6 ~~to obtain the insurance commitment upon satisfactory~~  
 7 ~~evidence that the credit union has made or is making a~~  
 8 ~~substantial effort to achieve the conditions precedent to~~  
 9 ~~issuance of the commitment. Additional time or times shall~~  
 10 ~~not extend later than January 1, 1978. No credit union may~~  
 11 ~~begin operation or transact any business until proof that it~~  
 12 ~~has obtained insurance under the provisions of Title II of~~  
 13 ~~the Federal Credit Union Act has been furnished to the~~  
 14 ~~director of the department of business regulation.~~

15 ~~(3) A credit union operating in violation of this~~  
 16 ~~section is subject to an order of suspension as provided for~~  
 17 ~~in 32-3-205.~~

18 ~~(4) The director of the department of business~~  
 19 ~~regulation shall make available reports of condition and~~  
 20 ~~examination reports to the administrator of the national~~  
 21 ~~credit union administration and may accept any report of~~  
 22 ~~examination made on behalf of such administrators. The~~  
 23 ~~director may appoint the administrator of the national~~  
 24 ~~credit union administration as liquidating agent of an~~  
 25 ~~insured credit union."~~