

Senate Bill 5

In The Senate

January 5, 1981

Introduced and referred
to Committee on Business
and Industry.

February 20, 1981

Committee recommend bill
do not pass.

1 SENATE Bill No. 5
 2 INTRODUCTION BY HIMSL
 3 BY REQUEST OF
 4 COMMITTEE ON BRANCHING OF FINANCIAL INSTITUTIONS

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING BRANCH
 7 BANKS AND ADDITIONAL BANK DRIVE-IN AND WALK-UP FACILITIES
 8 SUBJECT TO SPECIFIED LIMITATIONS AND REQUIREMENTS; AMENDING
 9 SECTIONS 32-1-202, 32-1-203, 32-1-372, AND 32-6-103, MCA."

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

12 Section 1. Section 32-1-372, MCA, is amended to read:
 13 "~~32-1-372. Branch---bank---prohibited-----exceptions~~
 14 Detached facilities -- branch banks. {1}--No--bank--may
 15 maintain--any--branch--bank, receive-deposits, or pay-checks
 16 except-over-the-counter-of-and-in-its-own--banking--house,
 17 provided--that--nothing--in--this-section-prohibits-ordinary
 18 clearinghouse-transactions-between-banks.

19 {2}{1} With the prior approval of the department, any
 20 bank doing business in this state may establish and maintain
 21 ~~not--more--than~~ one detached drive-in and walk-up facility
 22 consisting of one or more teller windows. The distance of
 23 the facility from the main banking house may not exceed
 24 1,000 feet measured in a straight line from the closest
 25 point of the main banking house to the farthest point of the

1 detached facility. The facility may not be closer than 200
 2 feet to a facility operated by any other bank or closer than
 3 300 feet to the main banking house of any other bank, the
 4 measurement to be made in a straight line from the closest
 5 points of the closest structures involved. The distances
 6 herein specified in relation to a facility operated by any
 7 other bank and in relation to the main banking house of any
 8 other bank may be decreased by mutual written agreement of
 9 the banks involved to not closer than 150 feet to a facility
 10 operated by any other bank or closer than 200 feet to the
 11 main banking house of any other bank, the measurement to be
 12 made in a straight line from the closest points of the
 13 closest structures involved. The service of the facility
 14 shall be limited to receiving deposits of every kind,
 15 cashing checks or orders to pay, receiving payments payable
 16 at the bank, and such other transactions as are normally and
 17 usually conducted or handled at teller windows in the main
 18 banking house.

19 {2} Regardless of whether it establishes and maintains
 20 the detached drive-in and walk-up facility authorized in
 21 {1}, a bank, with the prior approval of the department, may
 22 establish and maintain:

23 {a) one additional detached drive-in and walk-up
 24 facility if the population of its home city or town is less
 25 than 50,000 or if the main banking premises are located in

1 an unincorporated area; or

2 (b) two additional detached drive-in and walk-up
3 facilities if the population of the home city is 50,000 or
4 more.

5 (3) A bank may establish a branch or branches under the
6 same qualifications established for additional detached
7 facilities in subsection (2), except that approval for the
8 branch or branches is the responsibility of the state
9 banking board as provided in 32-1-202.

10 (4) A bank in a city of more than 50,000 population may
11 establish one branch and one additional detached walk-up and
12 drive-in facility or two branches or two additional detached
13 walk-up and drive-in facilities, but in no case more than a
14 total of two.

15 (5) A bank that has established and maintained a branch
16 or an additional detached facility authorized at the time of
17 its establishment on the basis of population of 50,000 or
18 more may continue to operate the branch or additional
19 detached facility regardless of subsequent decline of
20 population to less than 50,000. Population as used in this
21 section is that determined in the last completed decennial
22 census or, in the interim between censuses, that shown in
23 the most recent annual estimate published by the bureau of
24 the census, United States department of commerce.

25 (6) A branch bank or an additional detached facility

1 may not be:

2 (a) closer than 1,500 feet, measured in a straight line
3 between the closest points of the structures involved, to
4 any previously existing bank.

5 (b) farther than 3 miles beyond the limits of the home
6 town or city of its main bank;

7 (c) farther than 3 miles away from the main bank if it
8 is located in an unincorporated area.

9 (7) A branch bank is a separate, remote office,
10 established and maintained by a bank doing business in the
11 state of Montana, where the same services offered at the
12 bank's home office are available to the public.

13 ~~(3)(a)~~ (a) Any bank authorized to do banking business
14 in this state may utilize a satellite terminal as defined in
15 the Montana Electronic Funds Transfer Act and at any
16 location permitted by the Montana Electronic Funds Transfer
17 Act. The use of satellite terminals hereby authorized shall
18 not be subject to the restrictions on location, transaction,
19 or number applicable to detached drive-in, walk-up, or
20 teller facilities.

21 (b) A satellite terminal other than a point-of-sale
22 terminal may not be closer than 200 feet to a facility
23 operated by any other bank or closer than 300 feet to the
24 main banking house of any other bank, the measurement to be
25 made in a straight line between the closest points of the

1 closest structures involved. The distances herein specified
 2 in relation to a facility operated by any other bank and in
 3 relation to the main banking house of any other bank may be
 4 decreased by mutual written agreement of the banks involved
 5 to not closer than 150 feet to a facility operated by any
 6 other bank or closer than 200 feet to the main banking house
 7 of any other bank, the measurement to be made in a straight
 8 line between the closest points of the closest structures
 9 involved."

10 Section 2. Section 32-6-103, MCA, is amended to read:

11 "32-6-103. Definitions. As used in this chapter, the
 12 following definitions shall apply unless the context
 13 otherwise requires:

14 (1) "Electronic funds transfer" means debiting or
 15 crediting a depositor's account or otherwise transacting any
 16 business in a financial institution by electronic impulse
 17 messages, authorized under this chapter, transmitted
 18 directly by wire or otherwise or stored on magnetic tape or
 19 equivalent technologies, or otherwise, and processing the
 20 adjustments without regular and customary direct human
 21 intervention. Nothing in this subsection prevents a
 22 financial institution from processing its bookkeeping
 23 entries through normal human intervention.

24 (2) "Financial institution" means a bank chartered
 25 under chapter 1 of this title, a bank chartered under the

1 National Banking Acts in Title 12 of the United States Code,
 2 a building and loan association chartered under chapter 2 of
 3 this title, a savings and loan association chartered under
 4 the Home Owners' Loan Act in Title 12 of the United States
 5 Code, a credit union chartered under chapter 3 of this
 6 title, or a credit union chartered under the Federal Credit
 7 Union Act in Title 12 of the United States Code. For
 8 purposes of this chapter only, a consumer loan company
 9 licensed under chapter 5 shall be considered a financial
 10 institution.

11 (3) (a) "Satellite terminal" means any machine or
 12 device located off the premises of a financial institution
 13 which a financial institution or its customers may use to
 14 carry out electronic funds transfers.

15 (b) "Satellite terminal" includes:

16 (i) automated teller machine, which means a satellite
 17 terminal to make electronic funds transfers, located off the
 18 premises of financial institutions, operated by customers of
 19 financial institutions without assistance, activated by a
 20 unique identification device and personal identification
 21 number;

22 (ii) point-of-sale terminal, which means a satellite
 23 terminal located on the premises of a merchant, operated by
 24 a merchant or his employees solely to debit a customer's
 25 deposit or share account in a financial institution and

1 solely to credit the merchant's account commensurately for
 2 transactions in goods or services. A point-of-sale terminal
 3 need not be activated by a unique personal identification
 4 device. A merchant has the option, provided that the
 5 necessary computer capability exists at a reasonable cost,
 6 of selling goods or services by point-of-sale terminals with
 7 the electronic funds transfer taking effect at the time of
 8 the transaction or at a stated time after the transaction.

9 (c) The definition of "satellite terminal" does not
 10 include and nothing in this chapter may be construed to
 11 apply to:

12 (i) an automated teller machine located on the premises
 13 of a financial institution;

14 (ii) an automated clearinghouse or any equivalent system
 15 designed to transfer funds between financial institutions;
 16 or

17 (iii) a point-of-sale terminal which is utilized by a
 18 merchant in the merchant's business only and does not
 19 provide access to a financial institution.

20 (4) "Premises" means those locations where by
 21 applicable law financial institutions are authorized to
 22 maintain a principal place of business and other offices for
 23 the conduct of their respective businesses; the term
 24 includes a branch bank or a detached drive-in or and walk-up
 25 facility approved under 32-1-372.

1 (5) "Personal identification number" means a
 2 combination of numerals or letters selected for a customer
 3 of a financial institution and used, in conjunction with a
 4 unique identification device, to initiate a request for an
 5 electronic funds transfer.

6 (6) "Customer", in relation to a financial institution,
 7 means a holder of a demand or time account or a membership
 8 share in the institution or a person who is a borrower or a
 9 mortgagor; in relation to a merchant, it means a purchaser
 10 of goods or services.

11 (7) "Merchant" means a natural person, corporation,
 12 partnership, or association engaged in buying and selling
 13 goods or services, except that a financial institution is
 14 not a merchant.

15 (8) "Department" means the department of business
 16 regulation.

17 (9) "Person" means an individual, partnership,
 18 corporation, association, or any other business
 19 organization.

20 (10) "Unique identification device" means a magnetic
 21 encoded plastic card or equivalent device containing a
 22 number unique to a customer with relation to a financial
 23 institution."

24 Section 3. Section 32-1-202, MCA, is amended to read:
 25 "32-1-202. Powers and duties of board. (1) The state

1 banking board shall:

2 ~~(1)(a)~~ make final determinations upon applications for
3 certificates of authorization for new banks, bank branches
4 authorized in 32-1-372(3), mergers, consolidations, and
5 relocations of banks;

6 ~~(2)(b)~~ act in an advisory capacity with respect to the
7 duties and powers given by statute or otherwise to the
8 director of the department of business regulation as the
9 duties and powers relate to banking.

10 ~~(2) The board shall approve an application for a branch~~
11 ~~bank unless a compelling reason for disapproval is found by~~
12 ~~the board. Competition with other banks is not a~~
13 ~~sufficiently compelling reason for disapproval."~~

14 Section 4. Section 32-1-203, MCA, is amended to read:

15 "32-1-203. Rules adopted by board -- new banks --
16 branch banks. The board shall adopt rules necessary for the
17 administration of 32-1-201 through 32-1-206 in accordance
18 with the Montana Administrative Procedure Act. In
19 particular, the board shall adopt rules concerning the
20 authorization of new banks and branch banks. Such rules
21 shall contain minimum standards under which an application
22 for a new bank or a branch bank shall be determined,
23 including the following:

24 (1) a persuasive showing that there is a reasonable
25 public necessity and demand for a new bank at the proposed

1 location;

2 (2) that the bank will be owned and managed by persons
3 of good moral character and financial integrity and will be
4 safely and soundly operated;

5 (3) a persuasive showing that the new bank will have a
6 sufficient volume of business to assure solvency and that
7 establishment of the new bank will be in the public
8 interest."

9 NEW SECTION Section 5. Branch bank applications --
10 hearings. All applications for branch banks are subject to
11 the hearing requirements of Title 2, chapter 4, part 6.

12 Section 6. Severability. If a part of this act is
13 invalid, all valid parts that are severable from the invalid
14 part remain in effect. If a part of this act is invalid in
15 one or more of its applications, the part remains in effect
16 in all valid applications that are severable from the
17 invalid applications.

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